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GOVERNMENT OF GOA

EXTRAORDINARY No. 2

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

7-12-2007-LA

The Goa Agricultural Produce Marketing (Development and Regulation) Act, 2007 (Goa Act 11 of 2007), which has been passed by the Legislative Assembly of Goa on 8-3-2007 and assented to by the Governor of Goa on 1-8-2007, is hereby published for general information of the public.

Sharad G. Marathe, Joint Secretary (Law).

Porvorim, 6th August, 2007.

THE GOA AGRICULTURAL PRODUCE MARKETING (DEVELOPMENT AND REGULATION) ACT, 2007

(Goa Act 11 of 2007) [1-8-2007]

AN

ACT

To provide for improved regulation in marketing of agricultural produce, development of efficient marketing system, promotion of agriprocessing and agricultural export and the establishment and proper administration of markets for agricultural

produce in the State of Goa and to put in place an effective infrastructure for marketing of agricultural produce and lay down procedure and system thereto.

BE it enacted by the Legislative Assembly of Goa in the Fifty Eighth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Agricultural Produce Marketing (Development and Regulation) Act, 2007.

(2) It shall extend to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “agricultural produce” means all produce (whether processed or unprocessed) of agriculture, horticulture, apiculture, sericulture, livestock and products of livestock, forest produce, etc., as are specified in the Schedule or declared by the Government by Notification from time to time and also includes mixture of two or more than two of such products;

(b) “agriculturist” means a person who ordinarily by his own labour or by the labour of any member of his family or by the labour

of his tenants or servants or hired labour or otherwise, is engaged in the production or growth of any notified agricultural produce, and includes—

(a) a member of a co-operative society registered in the State of Goa which is dealing with agricultural produce; or

(b) a person who has sold agricultural produce, to the co-operative society, of the value not less than Rs. 5000/- or of such amount as may be determined by the State Marketing Officer from time to time in the preceding financial year; but does not include a trader, trading agent, broker, processor or commission agent;

(c) "bill" means a bill issued by the traders as prescribed;

(d) "business" means the purchase, sale, processing, value addition, storage, transportation or other connected activity of agricultural produce;

(e) "buyer" means a person or a firm or a company or a co-operative society or a Government agency or a public undertaking or a public agency or a corporation or a commission agent, who himself or on behalf of any other person or agent, buys or agrees to buy agricultural produce in the market area as notified under this Act;

(f) "bye-laws" means the bye-laws made by the Goa Agricultural Marketing Board under this Act;

(g) "Collector" means the Collector of the district or any officer empowered to discharge the duties of the Collector under the provisions of this Act;

(h) "commission agent" means a person who on behalf of his principal trader and in consideration of a commission on the amount involved in such transaction, buys agricultural produce and keeps it in his custody and delivers it to the principal trader in due course or receives and takes in his custody agricultural produce sent for sale within the market area or from outside the market area, sells the same in the market area and collects payment thereof from

the buyer and remits the sale proceeds to his principal trader;

(i) "contract farming" means farming by a person called "Contract Farming Producer" under a written agreement with another person called "Contract Farming Sponsor" to the effect that his agricultural produce shall be purchased as specified in the contract farming agreement;

(j) "contract farming agreement" means the agreement made for contract farming between Contract Farming Producer and Contract Farming Sponsor;

(k) "contract farming producer" means an individual agriculturist or association of agriculturists, by whatever name called;

(l) "contract farming sponsor" means a person entering into contract with the contract farming producer in terms of section 46 of this Act;

(m) "District Council" means a Zilla Panchayat established under the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994);

(n) "export" means dispatch of agricultural produce outside India;

(o) "exporter" means such person or a firm who exports agricultural produce;

(p) "e-trading" means trading in which billing, booking, contracting, negotiating, information exchange, record keeping and other connected activities are done electronically on computer network or internet;

(q) "Government" means the Government of Goa;

(r) "hamal" means a labourer or coolie engaged for Dara-making, loading, unloading, filling, stitching, emptying or carrying any agricultural produce in the notified market area;

(s) "Import" means bringing agricultural produce in India from other country;

(t) "Importer" means a person or firm who imports agricultural produce;

(u) "Licence" means a licence granted under this Act;

(v) "Licensee" means a person or association or firm or company or public sector undertaking or society holding a licence issued under this Act;

(w) "local authority" means and includes a village Panchayat or Zilla Panchayat or Municipal Council or Municipal Corporation, as the case may be;

(x) "Market" means a market area declared under section 4 of this Act and includes market yard and sub yards;

(y) "market area" means area notified as market area under section 4 of this Act;

(z) "market charges" includes charges on account of or in respect of commission, brokerage, weighing, measuring, hammali (loading, unloading and carrying), cleaning, drying, stitching, stacking, hiring, stamping, bagging, storing, warehousing, grading, surveying, transporting and processing;

(za) "market functionary" means a trader, a commission agent, buyer, hamal, processor, stockist and such other person as may be declared under the rules or bye-laws to be a market functionary;

(zb) "market yard" means a specified place and includes any enclosure, building or locality declared as such in any market area by the Government;

(zc) "marketing" means all activities involved in the flow of agricultural produce commencing from the stage of harvest till it reaches to the ultimate consumers, viz. grading, processing, storage, transport, channels of distribution and all other activities involved in the process;

(zd) "Marketing Board or Board" means the Goa Agricultural Marketing Board established under section 10 of this Act;

(ze) "notified agricultural produce" means any agricultural produce notified under section 4 of this Act;

(zf) "Other Backward Classes" means the other backward classes of citizens as specified by the Government from time to time;

(zg) "prescribed" means prescribed by rules made under this Act;

(zh) "private market yard" means such place other than the market yard or sub market yard in the market area where infrastructure has been developed and managed by a person for marketing of notified agricultural produce by holding a licence for this purpose under this Act;

(zi) "processing" means any one or more of a series of treatments relating to powdering, crushing, decorticating, dehusking, parboiling, polishing, ginning, pressing, curing or any other manual, mechanical, chemical or physical mode of treatment to which agricultural produce or its product is subjected to;

(zj) "processor" means a person who undertakes processing of any notified agricultural produce on his own accord or on payment of a charge;

(zk) "registration" means registration done under this Act;

(zl) "retail sale" means a sale of notified agricultural produce not exceeding such quantity as the Marketing Board may, by bye-laws, determine for retail sale in respect thereof;

(zm) "rules" means rules made under this Act by the Government;

(zn) "Schedule" means the Schedule to this Act;

(zo) "schedule castes/schedule tribes" shall carry the same meaning as assigned to them under clause (24) and (25) respectively of Article 366 of the Constitution of India;

(zp) "Secretary" means the Secretary of the Marketing Board and includes a Joint, Deputy or Assistant Secretary of the Marketing Board;

(zq) "seller" means a person who sells or agrees to sell any agricultural produce;

(zr) "State Marketing Officer" means a person appointed as the State Marketing Officer for the State of Goa;

(zs) "Sub-market yard" means a specified place other than market yard and includes any enclosure, building or locality, declared as such in any market area by the Government or the State Marketing Officer, by notification;

(zt) "trader" means a person who in his normal course of business buys or sells any agricultural produce and includes a person engaged in processing of agricultural produce but does not include an agriculturist;

(zu) "transportation" means taking agricultural produce by pushcart, bullock cart, truck or other vehicle, in the course of business, for marketing, from one place to another;

(zv) "transporter" means a person who transports agricultural produce;

(zw) "Value addition" means processing, grading, packing or other activities due to which value is added to the agricultural produce;

(zx) "Year" means the financial year or such year as may be notified by the Government from time to time.

CHAPTER II

Establishment of Markets

3. *Notification of intention of developing and regulating marketing of agricultural produce in specified area.*— (1) Upon a representation made by any person or local authority or by the growers of any agricultural produce within the area for which a market is proposed to be established or otherwise, the Government or the person appointed by the Government as the State Marketing Officer, may, by notification in the Official Gazette and in such other manner as may be prescribed, declare its or his intention of developing and regulating the marketing of such agricultural produce in such area as may be specified in the notification.

(2) A notification under sub-section (1) shall state that any objection or suggestion which may be received by the Government or the State Marketing Officer within a period which shall be not less than thirty days from the date of publication of such notification in the Official Gazette, shall be considered by the Government or the State Marketing Officer.

4. *Declaration of market areas and development and regulation of marketing of specified agricultural produce therein.*— After expiry of the period specified in the notification issued under section 3 and after considering such objections and suggestions as may be received before the expiry of such period and after making such inquiry as may be necessary, the Government or the State Marketing Officer may, by notification, declare the area specified in the notification issued under section 3 or any portion thereof to be a market area for the purposes of this Act and that marketing of all or any kind of agricultural produce specified in the notification issued under section 3 shall be developed and regulated under this Act in such market area.

5. *Management of market yards, sub-market yards, Farmers/Consumer/market and Private Market.*— (1) In every market area, there may be:—

(i) market yard managed by the Marketing Board;

(ii) one or more than one sub market yards managed by the Marketing Board;

(iii) one or more than one private Market yards/private markets managed by a person other than the Marketing Board;

(iv) one or more than one farmer's/ consumer's markets managed by a person other than the Marketing Board.

(2) The Government shall, as soon as may be, after the issue of notification under section 4, by notification, declare any specified place including any structure, enclosure, open place, or locality in the market area to be a market yard or sub-market yard, as the case may be.

6. *Notification of intention to alter limits of or to amalgamate or to split a market area.*— (1) The Government may, by notification, declare its intention,—

(i) to alter the limits of a market area by including within it any other area in the vicinity thereof or by excluding therefrom any area comprised therein; or

(ii) to amalgamate two or more market areas and constitute one market area thereof.

(2) Every notification issued under sub-section (1) of this section shall define the limits of the area which is intended to be included in or excluded from a market area, or of the market areas intended to be amalgamated into one market area, or of the area of each of the markets intended to be constituted after splitting up an existing market area, as the case may be, and shall also specify the period which shall not be less than six weeks within which objections, if any, shall be received by the Government.

7. *Procedure subsequent to notification under section 6.*— (1) Any inhabitant of the market area or of the areas covered by the notification issued under sub section (1) of section 6 may, if he objects to anything contained therein, submit his objections in writing to the Government within the period specified for this purpose in the said notification.

(2) When the period specified in the notification issued under sub-section (1) of section 6 has expired and the Government has considered and passed orders on such objections as may have been submitted to it within such period, the Government may, by notification, include the area or any part thereof in the market area or exclude it therefrom or amalgamate market areas thereof.

8. *Effect of alteration of limits.*— Where a notification under section 7 has been issued, the Government shall, after consulting the Marketing Board, frame a scheme to determine what portion of the assets and other properties vested in one market shall vest in the other market and in what manner the liabilities of the market shall be apportioned between the two markets and such scheme shall come into force on the date of its publication in the Official Gazette.

9. *Power of Government to issue consequential order.*— (a) Where a notification is issued under sub-section (1) of section 6 excluding area from any market area and such excluded area is not declared to be a separate market area; or

(b) Where a notification is issued under sub-section (1) of section 6 including any area within a market area, the Government may pass such consequential orders as it may deem fit in respect thereof and the sub committee constituted for such market area before the date of such exclusion or inclusion, shall, notwithstanding anything

contained in this Act, continue to be sub-committee for the said excluded or included area until the declaration of such areas as market area under this Act.

CHAPTER III

Constitution of Marketing Board

10. *Establishment of the Marketing Board.*— The Government shall establish a Marketing Board called as the Goa Agricultural Marketing Board for the State of Goa consisting of a Chairman, a Vice-Chairman and other members. The Marketing Board shall have such powers and discharge all such functions as are vested in it by or under this Act.

11. *Incorporation of the Marketing Board.*— The Marketing Board shall be a body corporate by the name of "the Goa Agricultural Marketing Board", and shall have perpetual succession and a common seal and it may sue or be sued in its corporate name and shall be competent to contract, acquire and hold property, both movable and immovable and to do all other things necessary for the purposes for which it is established.

12. *Constitution of the Marketing Board.*— (1) Subject to the provisions of sub-section (2), the Marketing Board shall consist of the following nineteen members, namely:—

(a) Eleven agriculturist members to represent agriculturists from each taluka of the State of Goa to be elected by the agriculturists only from the respective talukas;

(b) two female agriculturists members, one each from the North Goa District and the South Goa District, to be elected by the agriculturists only in the manner prescribed;

(c) one trader holding 'A' class licence to be elected from amongst traders of all classes;

(d) one Chairman of a co-operative society registered in the State of Goa, having a valid licence from the Marketing Board, doing the business of notified agricultural produce in the market area, to be elected from amongst the Chairmen of co-operative societies;

(e) two members to be nominated by the Government, one being from the office of the

Registrar of Co-operative Societies, Government of Goa, and the other being from the Department of Agriculture, Government of Goa, to function during the term of the Marketing Board.

(f) President of the Goa Cashew Manufacturers Association.

(g) the Secretary of the Marketing Board, to function during the term of the Marketing Board.

(2) Notwithstanding anything contained in sub-section (1) or any other provisions of this Act, when the Marketing Board is constituted for the first time, all the members, the Chairman and the Vice-Chairman thereof shall be nominated by the Government:

Provided that the Chairman and the Vice-Chairman shall be nominated from amongst the agriculturists from the State of Goa.

13. Election and term of office of members.—(1) The members shall be elected in the prescribed manner. Such rules may also provide for the determination of constituencies, the preparation and maintenance of the list of voters, persons qualified to be elected, disqualifications for being chosen as, and for being a member, the right to vote, the payment of deposit and its forfeiture, the determination of election disputes and all matters incidental and ancillary thereto, including provisions regarding election expenses.

(2) Except as otherwise provided in this Act, the members of the Marketing Board (not being a Marketing Board constituted for the first time) shall hold office for a period of five years and the members of the Marketing Board constituted for the first time shall hold office for a period of two years: Provided that, where the general elections of the members of Marketing Board could not be held before expiry of the term of office of its members as aforesaid, the Government may, by order published in the Official Gazette, extend from time to time, the term of office of the members of the Marketing Board, so however that, the period for which the term of office is so extended shall not exceed the period of one year in the aggregate:

Provided further that person who is a member of the Marketing Board by virtue of he being Chairman of a Co-operative Society, shall hold office so long as he continues to be such Chairman and in case of a member who is a representative of

traders shall hold office so long as he continues to hold 'A' class licence.

(3) The names of all the members of the Marketing Board shall be published by the Government in the Official Gazette and upon such publication, the Marketing Board shall be deemed to be duly constituted.

14. Preparation of list of voters and statement of expenditure.—(1) The superintendence, direction and control of the preparation of the list of voters for the purpose of conducting election to the Marketing Board shall vest with the Marketing Board and for the purpose of preparing the list of voters and conduct of election, the Marketing Board shall constitute necessary election fund.

(2) Whenever the list of voters is to be prepared or revised for the purpose of conducting election to the Marketing Board, the Registrar of Cooperative Societies shall, in writing, inform the Marketing Board about the same and require the Marketing Board to submit the list of voters of different constituencies and also require to deposit with him such amount before such date as may be specified by him for meeting expenses of elections.

(3) The Registrar of Cooperative Societies shall, after the declaration of the result of the election, draw up a statement of the expenditure incurred in conducting the election and shall within a period of three months from such result forward the same to the Marketing Board for information. The balance amount remaining unspent, if any, shall be refunded to the Marketing Board alongwith the dead stock purchased for the purpose. If the expenditure incurred exceeds the amount of deposit, the Registrar of Cooperative Societies shall call upon the Marketing Board to pay the excess amount as specified by him within one month from the date of receipt of the direction from him and the Marketing Board shall comply with such direction.

15. Commencement of term of office of members.—(1) The term of office of members of the Marketing Board shall commence on the date of the first meeting of the Marketing Board at which business is transacted.

(2) The first meeting of a Marketing Board shall be held on such date as may be fixed by the State Marketing Officer or any officer authorised by him

in that behalf, being a date which is within thirty days from the date on which the names of members are published in the Official Gazette. If the first meeting is, for any reason, not held within thirty days as aforesaid, the State Marketing Officer shall report the fact to the Government and state therein the reasons for the failure to hold the meeting and shall, thereafter, act according to the directions of the Government issued in that behalf.

(3) The term of office of outgoing members shall expire on the date immediately preceding the date of such first meeting.

16. Appointment of Administrator or Committee of Administrators after expiry of the normal or extended term of office of members.— (1) Notwithstanding anything contained in sub-section (3) of section 15 or any other provisions of this Act, where the term of office of two years, five years or the extended term of office, if any, of members of the Marketing Board has expired, the Government or any officer not below the rank of Assistant Registrar authorized by it, shall, by a written order,—

(a) direct that all members of the Marketing Board shall, as from the date specified in the Order, cease to hold and vacate their offices as members or otherwise; and

(b) appoint a person or the Committee comprising of not more than three members, from time to time, as the Administrator or the Committee of Administrators, as the case may be, to manage the affairs of the Marketing Board, for the period specified in the order upto the date of the first meeting of the reconstituted Board after the election is held (hereinafter in this section referred to as the "said period") and election shall be held within a period of six months from the date, the Administrator or the Committee of the Administrators, as the case may be, assumes office:

Provided that this period of six months may be extended, from time to time, by the Government, in exceptional circumstances, to a period not exceeding one year in the aggregate, by notification published in the Official Gazette, for reasons which shall be stated in such notification.

(2) During the said period, all the powers and duties of the Board and its various authorities under

this Act and the rules and bye-laws made thereunder or any other law for the time being in force shall be exercised and performed by the Administrator or the committee of the Administrators, as the case may be.

(3) The Administrator or the Committee of Administrators, as the case may be, may delegate any of his or its powers and duties to any officer, for the time being serving under him or it or under the Marketing Board.

(4) The Administrator or the members of the Committee of Administrators, as the case may be, shall receive such remuneration from the Fund of the Marketing Board as the Government may, from time to time, by general or special order, determine.

17. Resignation of members and nominations in certain circumstances.— (1) Any member of the Marketing Board may resign his office by writing under his hand addressed to the Chairman and the Chairman may resign his office by writing under his hand addressed to the State Marketing Officer and such resignation shall take effect from the date it is accepted by the Chairman or the State Marketing Officer, as the case may be.

(2) If, at any time, it appears to the Government that the Marketing Board by reason of the resignation of all or a majority of the members thereof, is unable to discharge the functions conferred or imposed upon it by or under this Act, the Government may, by order published in the Official Gazette, nominate persons to fill the vacancies of the members who have resigned: Provided that the persons so nominated shall hold office only for the remainder of the term of the members in whose place they are nominated or until the vacancies are duly filled in by election, whichever is earlier.

18. Removal of members for misconduct.— The Government, on the recommendation of the Marketing Board, supported by not less than two third of its members having voting right at a meeting, may remove any member of the Marketing Board who has been found guilty of neglect or misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member or is adjudged as insolvent:

Provided that, no such member shall be removed from his office unless he has been given reasonable opportunity of being heard by the Government.

19. *Casual vacancies.*— Subject to the provisions of sub-section (2) of section 13, in the event of any vacancy occurring on account of death, resignation or removal of a member or otherwise, the Chairman shall forthwith communicate the occurrence of such vacancy to the State Marketing Officer and the vacancy shall be filled in as soon as convenient as may be, by the election or by appointment or by nomination of a person thereto, who shall hold office so long only as the member in whose place he is elected or appointed or nominated would have held it, if the vacancy had not occurred:

Provided that, if the vacancy occurs within six months preceding the date on which the term of office of the member expires, the vacancy shall, unless the Government directs otherwise, not be filled.

20. *Election of Chairman and Vice-Chairman.*— The meeting of the Marketing Board shall be presided over by the Chairman and in the absence of the Chairman, by the Vice-Chairman. The Chairman and the Vice-Chairman shall be elected by the members of the Marketing Board, excluding the Secretary of the Marketing Board and the Government nominees. Only the members as mentioned in clauses (a), (b) and (d) of sub-section (1) of section 12 shall be eligible to contest the elections for the post of the Chairman or the Vice-Chairman.

21. *Term of office of Chairman and Vice-Chairman.*— The Chairman and the Vice-Chairman shall hold office for such period as may be prescribed.

22. *Chairman and Vice-Chairman to hold office until their successors enter upon office.*— The Chairman and the Vice-Chairman shall, notwithstanding the expiration of their term of office, continue to hold their office, until their successors enter upon their office or the Administrator or the Committee of Administrators, as the case may be, is appointed under section 16 and assumes office.

23. *Honorarium to Chairman and Vice-Chairman.*— The Chairman and the Vice-Chairman shall be paid such honorarium as the State Marketing Officer may specify, having regard to the finances of the Marketing Board, so however that, the total amount of such honorarium to be paid shall not exceed the limit as may be prescribed.

24. *Procedure for election of Chairman and Vice-Chairman.*— (1) On the constitution of the Marketing Board after a general election or otherwise, a meeting shall be called for the election of the Chairman and Vice-Chairman on the date fixed by the State Marketing Officer under sub-section (2) of section 15.

(2) Such meeting shall be presided over by the State Marketing Officer or any person authorised by him in that behalf. The State Marketing Officer or such authorised person shall, when presiding over the meeting, have the same powers as that of the powers exercised by the Chairman while presiding over a meeting of the Marketing Board, but shall not have the right to vote.

(3) If, in the election of a Chairman or Vice-Chairman, there is an equality of votes, the result of the election shall be decided by lots to be drawn in the presence of the presiding officer in such manner as he may determine.

(4) In the event of a dispute arising as to the validity of the election of a Chairman or Vice-Chairman, the State Marketing Officer, if he is the presiding officer, shall decide the dispute himself and in any other case the officer/person authorised to act as a presiding officer by the State Marketing Officer shall refer the dispute to the State Marketing Officer for his decision. The decision of the State Marketing Officer, subject to an appeal to the Government, shall be final and no suit or other proceeding shall lie in any Court in respect of any such decision.

25. *Resignation of Chairman and Vice-Chairman.*— (1) The Chairman may resign from his office by writing under his hand addressed to the State Marketing Officer and such resignation shall take effect from the date it is accepted by the State Marketing Officer.

(2) The Vice-Chairman may resign from his office by writing under his hand addressed to the Chairman and such resignation shall take effect from the date it is accepted by the Chairman.

26. *Motion of no-confidence against Chairman or Vice-Chairman.*— (1) A Chairman or Vice-Chairman shall forthwith cease to be a Chairman or a Vice-Chairman, as the case may be, if the Marketing Board at a special meeting by a resolution passed by a majority of not less than two third of its total number of members (excluding

the members who have no right to vote), so decides.

(2) The requisition for such special meeting shall be signed by not less than half of the total number of members (excluding the members who have no right to vote) and shall be sent to the State Marketing Officer.

(3) The State Marketing Officer shall, within fifteen days from the date of receipt of the requisition under sub-section (2), convene a special meeting of the Marketing Board:

Provided that, when the State Marketing Officer convenes such special meeting of the Board, he shall give advance written notice thereof to the Chairman or to the Vice-Chairman, as the case may be.

(4) A special meeting to consider a resolution under sub-section (1) shall be presided over, by the State Marketing Officer or such person/officer authorized by him in this behalf, but the State Marketing Officer or such person/officer shall have no right to vote at such meeting.

(5) The member of Marketing Board who have no right to vote may take part in the discussion.

(6) If the motion of no confidence is not carried or if the meeting could not be held for want of quorum, no such requisition for considering fresh such motion of no confidence in the same Chairman or Vice-Chairman shall be made before the expiry of six months from the date of such meeting.

27. Consequences of absence of Chairman, Vice-Chairman or member without leave.— Subject to the rules made by the Government in this behalf, a Chairman, a Vice-Chairman or a member, as the case may be, who absents himself from three consecutive meetings of the Marketing Board without leave of the Marketing Board, shall cease to be a Chairman, a Vice-Chairman or a member, as the case may.

28. Vacancies in office of Chairman and Vice-Chairman to be filled up.— (1) In the event of a vacancy in the office of the Chairman or Vice-Chairman by reason of death, resignation, removal or otherwise, the vacancy shall, subject to the provisions of this Act, be filled, as soon as may be, by election or by nomination of the Chairman or Vice-Chairman, as the case may be.

(2) Every Chairman or Vice-Chairman elected or nominated under this section to fill a casual

vacancy shall hold office for such period as the Chairman or Vice-Chairman in whose place he is elected or nominated, as the case may be, would have held it if such vacancy had not occurred.

29. Refusal to hand over charge to new Chairman or Vice-Chairman.— (1) On the election or nomination of a new Chairman or Vice-Chairman, the out-going Chairman or Vice-Chairman in whose place the new Chairman or Vice-Chairman has been elected or nominated shall forthwith hand over charge of his office to such new Chairman or Vice-Chairman, as the case may be.

(2) If the outgoing Chairman or Vice-Chairman fails or refuses to hand over the charge of his office as required under sub-section (1), the State Marketing Officer or any Officer empowered by the State Marketing Officer in this behalf, may, by order in writing, direct the Chairman or the Vice-Chairman, as the case may be, to forthwith hand over the charge of his office and all records, funds, papers and property of the Marketing Board in his possession, if any, to the new Chairman or Vice-Chairman.

(3) If the outgoing Chairman or Vice-Chairman to whom a direction has been issued under sub-section (2) does not comply with such direction, the State Marketing Officer or any person authorized by him in this behalf may apply to the Sub-divisional Magistrate within whose jurisdiction the Marketing Board is functioning for seizing and taking possession of records, papers, funds and property of the Marketing Board in the possession of such Chairman or Vice-Chairman.

(4) On receipt of an application under sub-section (3), the Sub-divisional Magistrate may authorize any police officer, not below the rank of a Police Sub-Inspector, to enter and search any place where the records, funds, papers and property of the Marketing Board are kept or likely to be kept and to seize them and hand over possession thereof to the new Chairman or Vice-Chairman, as the case may be, who then shall be deemed to have assumed charge.

30. Meetings, etc. of Marketing Board.— The meetings, quorum and procedure to be followed at meetings of the Marketing Board shall be regulated in accordance with the bye-laws made for that purpose by the Marketing Board.

31. Members to act during vacancy and acts of Marketing Board, etc., not to be invalidated by informalities.— (1) During any vacancy of member in the Marketing Board, the continuing members may act as if no vacancy has occurred.

(2) A Marketing Board shall have power to act notwithstanding any vacancy in the office of member thereof or any defect in the constitution thereof or in any act or proceedings thereof and all such acts shall be valid notwithstanding that it is subsequently discovered that some person who was not entitled to do so, presided over the meeting of Marketing Board or voted at such meeting or otherwise took part in the proceedings of the Marketing Board.

CHAPTER IV

Powers and duties of Marketing Board

32. Powers and duties of Marketing Board.— (1) It shall be the duty of the Marketing Board to implement the provisions of this Act, the rules and bye-laws made thereunder in the market area, to provide facilities for marketing of agricultural produce in the market area as directed by the State Marketing Officer or the Government, as the case may be, and do such other acts as may be required in relation to the superintendence, direction and control of markets or for regulating marketing of agricultural produce in any place in the market area and for purposes connected with the matters aforesaid and for that purpose may exercise such powers, perform such duties and discharge such functions as may be provided by or under this Act.

(2) Without prejudice to the generality of the foregoing provisions, the Marketing Board may,—

- (a) regulate the entry of persons and of vehicular traffic into the market;
- (b) supervise the behaviour of the persons who enter the market for transacting business;
- (c) grant, renew, refuse, suspend or cancel licences;
- (d) maintain and manage the market, including admissions to and conditions for use of market within the market area;
- (e) provide for necessary facilities required for the marketing of agricultural produce within the market in the market area;
- (f) regulate and supervise the auctions of notified agricultural produce in accordance with the provisions and procedure laid down under the rules made under this Act or the Bye laws of the Marketing Board;

(g) regulate the making, carrying out and enforcement or cancellation of agreements of sales, weighment, delivery, payment and all other matters relating to marketing of notified agricultural produce in the prescribed manner;

(h) take all possible steps to prevent adulteration and to promote and organize grading and standardization of agricultural produce;

(i) take measures for the prevention of purchase and sale below the minimum support prices as fixed by the Government from time to time;

(j) collect, maintain, disseminate and supply information in respect of production, sales, storage, processing, prices and movement of notified agricultural produce including information relating to crops, statistics and marketing intelligence as may be required by the State Marketing Officer;

(k) arrange to obtain fitness (health) certificate from veterinary doctor in respect of animals, cattle, birds, etc., which are bought or sold in the market area;

(l) carry out the publicity about the benefits of regulation, system of transaction facilities provided in the market area through such media as, in the opinion of the Marketing Board, may be effective or necessary;

(m) provide for settlement of disputes arising out of any kind of transactions connected with the marketing of agricultural produce and all matters incidental and ancillary thereto;

(n) subject to the provisions of section 11, acquire, hold or dispose off any movable or immovable property for the purpose of efficiently carrying out it's duties;

(o) institute or defend any suit, prosecution, action, proceedings, application or arbitration and compromise such suit or action;

(p) make arrangement for holding of elections of the Marketing Board in the prescribed manner;

(q) levy, take, recover and receive charges, fees, rates and other sums or money to which the Marketing Board is entitled;

(r) subject to approval of the State Marketing Officer, obtain loans, subsidies, subventions from the State and Central Government or any financing agency for providing warehousing and marketing facilities in the market;

(s) subject to approval of the State Marketing Officer, prepare budgets, supplementary budgets, make re-appropriation in the budget and incur expenditure accordingly;

(t) keep a set of standard weights and measures in the markets against which weighment and measurement may be checked;

(u) inspect and verify the scales, weights and measures which are in use in the market area and also the books of accounts and other documents maintained by the licensee in such manner as may be prescribed;

(v) administer the Marketing Board Fund referred to in section 44 of this Act and maintain the account thereof and get the same audited in the prescribed manner;

(w) prosecute persons for violating the provisions of this Act, the rules and bye-laws framed thereunder.

(x) provide storage and warehousing facilities in the market area;

(y) with the prior sanction of the Government or the State Marketing Officer, undertake any other activity conducive to the promotion or regulation of marketing of Agricultural produce;

(z) perform such other duties as may be prescribed;

33. Appointment of sub-committees and delegation of power.— The Marketing Board may appoint one or more sub-committees consisting of one or more of its members and may delegate to such sub-committee, such of its powers or duties as it may think fit. The sub-committee so appointed shall function under the superintendence, guidance, direction and control of the Marketing Board.

34. Power to levy market fees (single point levy).—

(1) The Marketing Board shall levy market fee,—

(i) on the sale or purchase of notified agricultural produce, whether brought from a

place within the State or from a place outside the State, into the market area; and

(ii) on the notified agricultural produce, whether brought from a place within the State or from a place outside the State, into the market area for processing; at such rates as may be fixed by the Government from time to time subject to a minimum rate of one rupee and maximum of two rupees for every one hundred rupees of price of agricultural produce, in the manner prescribed.

(2) The market fees specified in sub-section (1) shall not be levied.—

(i) for the second time in other market area of the State, where such market fee has already been paid on a particular agricultural produce in any market area of the State and the information to that effect has been furnished by the concerned person in the manner prescribed.

(ii) more than once in any market area, in case the agricultural produce is being resold in the process of commercial transaction between traders or two consumers, provided that, the information to that effect has been furnished by the concerned person in the manner prescribed.

(3) On the agricultural produce brought in the market area for commercial transaction or for processing or for export, the market fee shall be deposited by the buyer or processor or exporter, as the case may be, in the office of the Marketing Board, within 14 days from the date of entry of such agricultural produce in the market area or before its sale or resale or processing or dispatch outside the market area, as the case may be:

Provided that in case if any notified agricultural produce is found to have been processed, sold, resold or dispatched outside the market area without payment of market fee payable on such produce, the Marketing Board shall impose penalty on the concerned person which shall be five times of the market fees payable.

(4) The market fee shall be payable by the buyer of the notified agricultural produce and shall not be deducted from the price payable to the seller:

Provided that where the buyer of the notified agricultural produce cannot be identified, all the fees shall be payable by the person who has sold or brought the agricultural produce for sale in the market area:

Provided further that in case of commercial transactions between traders in the market area, the market fee shall be collected and paid by the seller.

(5) The market functionaries, as may be specified by the Marketing Board in the bye-laws, shall maintain account relating to sale, purchase, processing or addition in value of agricultural produce in the prescribed forms and submit to the Marketing Board periodical returns in that respect in the manner prescribed.

(6) The Marketing Board may levy and collect entrance fee on vehicles, which enter the market yard/sub-market yard, at such rate as may be specified in the bye-laws.

35. *Power to borrow.*— (1) The Marketing Board may, with previous sanction of the State Marketing Officer, raise money required for carrying out the purpose for which it is established, on the security of any property vested in it and of any fees leviable and recoverable by it under this Act.

(2) The Marketing Board may, for the purpose of meeting the expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the Government on such terms and conditions as the Government may determine.

36. *Power to order production of accounts, entry, inspection and seizure.*— (1) The Secretary of the Marketing Board or any officer empowered by the Marketing Board in this behalf, may, for the purposes of this Act, require any person carrying on business in any kind of notified agricultural produce to produce before him the accounts and other documents and to furnish any information relating to stocks of such agricultural produce or purchase, sale, processing, value addition and delivery of such agricultural produce by such person and also to furnish any other information relating to payment of market fees by such person.

(2) All accounts and registers maintained by any person in the ordinary course of business of any notified agricultural produce and documents relating to stocks of such agricultural produce or purchase, sale, processing, value addition of such agricultural produce in his possession and offices, establishment, godowns, vessels or vehicles of such person shall be kept open for inspection at all reasonable times by the Secretary of the Marketing Board or any officer empowered by the Marketing Board or the Government.

(3) If any such authorized officer has reason to suspect that any person is attempting to evade the payment of any market fee due and payable by him under section 34 or that any person has purchased, sold, processed or added value to any notified agricultural produce in contravention of any of the provisions of this Act or the rules or the bye-laws framed thereunder, in the market areas, he may, by order in writing to such person, seize such accounts, registers or documents of such person, as may be necessary and shall grant a receipt for the same and shall retain the same so long as it may be necessary for the examination thereof or for prosecution.

(4) For the purposes of sub-section (2) or sub-section (3), such authorised officer may enter or search any place of business, warehouse, office, establishment, godown, vessel or vehicle where such officer has reason to believe that such person keeps or for the time being has kept accounts, registers or documents of his business or stock of notified agricultural produce relating to his business.

(5) The provisions of sub-sections (4) to (8) of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to search under sub-section (4).

(6) Where, any books of accounts or other documents seized under sub-section (3) contains entries recorded therein making a reference as to the quantity, quotations, rates, receipts or payment of money or sale or purchase of goods, such books of accounts or other documents shall be admitted in evidence and such entries shall be considered as *prima-facie* evidence of matters, transactions and accounts purported to have been recorded therein.

37. *Power to stop vehicles and inspect store.*— (1) At any time when so required by any officer empowered by the Marketing Board in this behalf in the market area concerned, the driver or any other person incharge of the vehicle, vessel or other conveyance shall stop the vehicle, vessel or other conveyance, as the case may be and keep it stationery, as long as may reasonably be necessary and allow such officer to examine the contents of the vehicle, vessel or other conveyance and inspect the records relating to notified agricultural produce carried by him and disclose his name and address and the name and address of the owner of the vehicle, vessel or other

conveyance and the name and address of the owner of the notified agricultural produce carried by such vehicle, vessel or other conveyance.

(2) The officer empowered under sub-section (1) shall have power to seize any notified agricultural produce brought into or taken out of or proposed to be taken out of the market area by any vehicle, vessel or other conveyance, if such officer has reason to believe that any market fee or other amount due and payable under this Act or value payable to the seller in respect of such produce has not been paid.

(3) If any officer empowered under sub-section (1) has reason to suspect that any person is attempting to evade the payment of any market fee due and payable by him under section 34 or that any person has purchased or stored any notified agricultural produce in contravention of any of the provisions of this Act or the rules or the bye-laws framed thereunder in the market area, he may enter or search any place of business, warehouse, office, establishment or godown where he has reason to believe that such person keeps or has for the time being kept stock of notified agricultural produce and he may first seize such agricultural produce and such seized agricultural produce may be confiscated in favour of the Marketing Board in the manner as prescribed for this purpose:

Provided that a reasonable opportunity of being heard shall be given to the person concerned before confiscation of the agricultural produce.

(4) The provisions of sections 100, 457, 458 and 459 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to entry, search and seizure under sub-sections (1), (2) and (3), as they apply in relation to the entry, search and seizure of property by the Police Officer and such seizure shall forthwith be reported by the officer aforesaid to a Magistrate having jurisdiction over the area.

38. *Power to write off loss, shortage of fee, etc., which is irrecoverable.*—The Marketing Board may write off any fee or other amount whatsoever due to it or wherever any loss to the Marketing Board in money or store or other property occurs through any fraud or negligence of any person or for any other cause and in the opinion of the Marketing Board, the fee, amount, money, store or property is found to be irrecoverable or should be remitted, the Marketing Board may order to write off or remit

such fee, amount, money, store or property as loss or irrecoverable, as the case may be:

Provided that where the amount due or the value of the store or other property exceeds five hundred rupees, the Marketing Board shall, before making any order to write off or remit as aforesaid, obtain the sanction of the State Marketing Officer.

39. *Execution of contracts.*—(1) Every contract entered into by the Marketing Board shall be in writing and signed on behalf of the Marketing Board by its Chairman and the Secretary or in the absence of the Chairman, by the Vice-Chairman and Secretary.

(2) No contract other than a contract executed as provided in sub-section (1) shall be binding on the Marketing Board.

40. *Certain disputes regarding weights and measures to be decided by the Secretary of the Marketing Board.*—(1) The disputes relating to the method of verifying, re-verifying, adjusting or stamping any weights or measures or weighing or measuring instrument in any market area, such dispute may, at the request of the party interested, be referred to the Secretary of the Marketing Board and the decision of the Secretary of the Marketing Board shall, subject to the provisions of sub-section (2), be final.

(3) An appeal shall lie, within the prescribed time limit, from the decision under sub-section (1) to the Government or such officer as the Government may appoint in this behalf. The decision of the Government or such officer, shall be final.

41. *Power to grant exemption from payment of market fees.*—(1) The Government may, by notification in the Official Gazette and subject to such conditions and restrictions, if any, as may be specified therein, exempt in whole or in part, any agricultural produce brought for sale or bought or sold in the market area, specified in such notification, from the payment of market fee for such period as may be specified therein.

(2) Any notification issued under sub-section (1) may be rescinded by the Government before the expiry of the period for which it would have remained in force and on rescission, such notification shall cease to be in force.

CHAPTER V

Staff of Marketing Board

42. Power of the Marketing Board to employ staff.— (1) The Marketing Board may employ a Secretary and such other officers and servants as may be necessary for the management of the market and for the collection, maintenance, dissemination and supply of information relating to crops, statistics and market intelligence and for carrying out its duties under this Act and shall pay such officers and servants such salaries and allowances, pension or gratuity as the Marketing Board thinks fit and shall contribute to any Provident Fund and Pension Fund which may be established for the benefit of such employees:

Provided that all posts other than that of a Secretary, save as such general or special directions issued by the State Marketing Officer in this behalf, shall be created with the prior approval of the State Marketing Officer.

(2) The Secretary of the Marketing Board shall be the Chief Executive Officer and the custodian of the records and properties of the Marketing Board who shall exercise such powers as are conferred and perform such duties as are imposed upon him by or under this Act.

(3) The powers conferred by this section on the Secretary of the Marketing Board shall be exercised subject to any rules which may be made in that behalf by the Government.

CHAPTER VI

Budget and Fund of the marketing board

43. Preparation and sanction of budget.— (1) The Marketing Board shall prepare and pass the budget of its income and expenditure for the ensuing year in the prescribed form and shall submit it to the State Marketing Officer for sanction before the prescribed date every year. The State Marketing officer shall sanction the budget with or without modification within two months from the date of receipt thereof. If the budget is not returned by the State Marketing Officer within two months, it shall be presumed to have been sanctioned by the State Marketing Officer.

(2) The Marketing Board may sanction or cause to undertake execution of construction works out of its fund other than the permanent funds referred

to in sub-section (5) of this section on the basis of the plan and designs approved by the Marketing Board:

Provided that no expenditure except payment of pension shall be made out of the pension fund.

(3) No expenditure shall be incurred by the Marketing Board on any item if there is no provision to that effect in the budget sanctioned thereof unless it can be met by re-appropriation from saving under any other head. The sanction for the re-appropriation may be obtained from the State Marketing Officer, provided that, in case of re-appropriation from minor head under one major head, sanction for re-appropriation will not be required.

(4) The Marketing Board may, at any time during the year for which any budget has been sanctioned, cause a revised or supplementary budget to be passed and obtain sanction in the same manner as if it is an original budget.

(5) The Marketing Board shall make provision in its budget for crediting the amount into the permanent fund at the rate of twenty percent of its gross receipts comprising of license fee and market fees and into the pension fund as specified from time to time by the State Marketing Officer. No expenditure from the permanent fund shall be incurred except with the prior approval or as per the direction given by the State Marketing Officer. No expenditure from this fund or from amount as provided under sub-section (2) of section 44 shall be proposed in the budget referred to in sub-section (1).

(6) The State Marketing Officer, while according sanction for construction work, may, at his discretion, direct that the execution of the works shall be entrusted to the Public Works Department of the Government or any other agency authorized by the Government for this purpose or to the contractor/s from the approved panel of contractors.

44. Marketing Board fund.— (1) Save as provided in sub-section (2), all moneys received by the Marketing Board shall be paid into a fund to be called 'the Marketing Board fund' and all expenditure incurred by the Marketing Board under or for the purposes of this Act shall be defrayed out of the said fund. Any surplus remaining with the Marketing Board after meeting

such expenditure shall be invested in such manner as may be prescribed.

(2) Any money received by the Marketing Board by way of arbitration fee or as a security for costs in arbitration proceedings relating to the disputes or any money received by the Board by way of security deposit, contribution to Provident Fund or for payment in respect of any notified agricultural produce or charges payable to weighman, hamal and other functionaries and such other money received by the Marketing Board as may be provided in the rules or bye-laws shall not form part of the Marketing Board fund and shall be kept in such manner as may be prescribed.

(3) Save as otherwise provided in this Act, the amount to the credit of the Marketing Board fund as also other money received by the Marketing Board shall be kept in a scheduled co-operative bank or in a Nationalized Bank or in Post Office Saving Bank or in any other mode with the approval of the State Marketing Officer.

45. Application of Marketing Board fund. — (1) Subject to the provisions of section 44, the Marketing Board, in order to discharge functions and duties entrusted to it under this Act, may use the Marketing Board fund. Without prejudice to the generality of this provision, the Marketing Board fund may be used for the following purposes, namely:—

(i) the acquisition of a site or sites for the market;

(ii) the establishment, maintenance and improvement of the market yard;

(iii) the construction and repairs of building necessary for the purpose of the market yard and for convenience or safety of the persons using the market yard;

(iv) the maintenance of standard weights and measures;

(v) the meeting of establishment charges including payment and contribution towards provident fund, pension and gratuity of the officers and servants employed by the Marketing Board;

(vi) loans and advances to the employees of the Marketing Board;

(vii) the payment of interest on the loans that may be raised for the purpose of the market and for provision of sinking fund in respect of such loans;

(viii) the collection and dissemination of information relating to crop statistics and marketing of agricultural produce;

(ix) meeting the expenses incurred in auditing the accounts of the Marketing Board;

(x) payment of honorarium to the Chairman, Vice-Chairman, travelling allowances to the Chairman, Vice-Chairman and other members of the Marketing Board and sitting fees payable to members for attending the meetings;

(xi) contribution to the National Council of State Agricultural Marketing Boards as prescribed;

(xii) contribution to any scheme for development of agricultural marketing including transport;

(xiii) to provide facilities like grading, standardization, quality certification services and communication to agriculturists in the market area;

(xiv) to provide for development of agricultural produce in the market area;

(xv) payment of expenses on elections under this Act;

(xvi) incurring of all expenses on research training in marketing of agricultural produce;

(xvii) prevention, in conjunction with other agencies, viz. State, Central and others, of distress sale of agricultural produce;

(xviii) fostering co-operative marketing and assisting co-operative marketing societies in the procurement and organization of profitable disposal of produce, particularly the produce belonging to small and marginal farmers;

(xix) to create and promote, on its own or through public or private partnership, infrastructure of post-harvest handling of agricultural produce, cold storages, pre-cooling

facilities, pack houses and all such infrastructure which is required to develop modern market system;

(xx) any other purpose connected with the marketing of agricultural produce under this Act which is in the public interest, subject however, that the expenditure thereon is made with the prior sanction of the State Marketing Officer.

CHAPTER VII

Contract Farming

46. Procedure and form of contract farming Agreement.— The Contract Farming Agreements shall be governed in the manner laid down hereinafter.—

(1) Contract Farming Sponsor shall register himself with the Marketing Board or with the officer authorised by the Marketing Board in that behalf in such manner as may be prescribed.

(2) The Contract Farming Sponsor shall get the Contract Farming Agreement recorded with the officer authorised by the Marketing Board, in this behalf.

(3) The Contract Farming Agreement shall be in such form and contain such particulars, terms and conditions as may be prescribed.

(4) Notwithstanding anything contained in the Contract Farming Agreement, no title, rights, ownership or possession, shall be transferred, alienated or vest in the contract farming sponsor, his successor or his agent as a consequence arising out of such Contract Farming Agreement.

(5) Any dispute arising out of the Contract Farming Agreement shall be referred to an authority prescribed in that behalf for settlement. The prescribed authority shall resolve the dispute in a summary manner within 30 days from the date of receipt of such reference after giving the parties a reasonable opportunity of being heard.

(6) Any party aggrieved by the decision of the prescribed authority may prefer an appeal to the prescribed Appellate Authority within thirty days from the date of decision and such Appellant Authority shall dispose of the appeal within thirty days from the date of such appeal after giving the parties a reasonable opportunity of being heard

and the decision of the Appellate Authority shall be final and binding upon the parties thereto.

(7) The decision of the authority under sub-section (5) and the decision in the appeal under sub-section (6) shall have force of a decree of the civil court and shall be enforceable as such and the decretal amount shall be recovered as arrears of land revenue from the party thereto.

(8) Any dispute relating to or arising out of Contract Farming Agreement shall not be called in question in any Court of Law.

(9) The agricultural produce covered under the Contract Farming Agreement may be sold to the Contract Farming Sponsor outside the market area which shall be free from levy of market fees.

CHAPTER VIII

Regulation of Trading

47. Regulation of marketing of agricultural produce.— (1) No person shall, except in accordance with the provisions of this Act and the rules and bye-laws made thereunder,—

(i) use any place in the market area for the marketing of notified agricultural produce; or

(ii) operate in the market area as a market functionary.

(2) Nothing in sub-section (1) shall apply to:—

(i) the sale of agricultural produce which is made by the producer himself to any person for his domestic consumption upto the quantity of one quintal;

(ii) notified agricultural produce which is brought for sale by head load, provided that the Government may by notification, withdraw this exemption specifying the reasons therein in respect of such market area as is specified in the notification;

(iii) the purchase or sale of notified agricultural produce which is made by a petty trader;

(iv) purchase of notified agricultural produce which is made by an authorized fair price shop dealer from the Food Corporation of India, the

State Commodities Trading Corporation" or any other agency or institution authorized by the Government for distribution of essential commodities through the public distribution system;

(v) the transfer of agricultural produce to a co-operative society for the purpose of securing an advance therefrom.

48. Sale of agricultural produce in markets.—
(1) Entire notified agricultural produce shall be ordinarily sold in the market yards/sub market yards or in the private yards of the licence holder, subject to the provisions of sub-section (2):

Provided that the notified agricultural produce may be sold at other places also to a licence holder under section 52 of this Act:

Provided further that it shall not be necessary to bring agricultural produce covered under Contract Farming to the market yard/sub-market yard/private yard and it may be directly sold to contract farming sponsor from farmers' fields.

(2) The notified agricultural produce brought by the licensed/registered trader from a place outside the market area or within the market area in the course of commercial transaction may be bought or sold anywhere in the market area.

(3) The price of the notified agricultural produce, brought for sale into the market yard, shall be settled by a tender bid or open auction or any other transparent system and no deduction shall be made from the agreed price on any account whatsoever by the seller:

Provided that the price of notified agricultural produce in the private yard shall be settled in the manner prescribed.

(4) Weighment or measurement or counting of the agricultural produce so purchased shall be done by such a person and such system as is provided in the bye-laws or at any other place specified for the purpose by the Marketing Board.

49. Terms and procedure of buying and selling.—
(1) Except in the commercial transaction between two traders, any other person who buys notified agricultural produce in the market area, shall execute an agreement in triplicate, in such form,

as may be prescribed, in favour of the seller and one copy of such agreement shall be kept by the buyer, second copy shall be supplied to the seller and the third copy shall be kept in the records of the Marketing Board.

(2) (a) The price of the notified agricultural produce brought in the market yard/sub-market yard/ private yard shall be paid on the same day to the seller in market yard/sub-market yard/ /private yard, as the case may be, and that the payment for notified agricultural produce purchased from such yard, shall be made to the seller, if he is not a trader, on the same day there itself;

(b) In case the purchaser does not make payment as provided under clause (a), he shall be liable to penalty at the rate of one percent per day on the total price of the agricultural produce payable to the seller, for five days from the date on which such amount is payable;

(c) In case the purchaser does not make payment to the seller as provided under clause (b) above, within five days, his license and registration shall be deemed to have been cancelled on the sixth day of such purchase and he shall not be registered or granted any license or permitted to operate under this Act for a period of one year from the date of such cancellation.

(3) No wholesale transaction of notified agricultural produce shall be entered directly by licensed/ registered trader with producer of such agricultural produce in the market yard/sub-market yard/private yard or at such place except in accordance with the provisions contained in the bye-laws:

Provided that agricultural produce, produced under contract farming, may be directly bought by contract farming sponsor anywhere.

(4) The commission agent shall recover his commission only from his principal trader at such rate as may be specified in the bye-laws including all expenses as may be incurred by him in storage of the agricultural produce and for other services rendered by him.

(5) Every commission agent shall be liable,—

(a) to keep the goods of his principal in safe custody without any charge other than the commission payable to him; and

(b) to pay the price of the goods to the principal as soon as the goods are sold by him irrespective of the fact that whether he has received or has not received the price from the buyer of such goods.

50. *Permission for transportation of agricultural produce.*— (1) No agricultural produce shall be removed out of the market area or brought in the market area from outside the State of Goa or outside India except in the manner and in accordance with the permit issued in such form as may be specified by the Secretary of the Marketing Board:

Provided that the bill issued by the seller shall be retained till the time of transportation of processed product of agricultural produce out of the market area:

Provided further that the producer of agricultural produce himself may take the agricultural produce from one place to another without a permit.

(2) Under commercial transactions, any agricultural produce may be transported in the market area in the manner as specified by the Secretary of the Marketing Board.

51. *Registration of functionaries.*— (1) Any person who desires to operate in the market area as trader, commission agent, weighman, hamal, surveyor, warehouseman, contract farming buyer, owner or occupier of processing factory or as any other market functionary, in respect of any notified agricultural produce, shall apply to the Marketing Board for his registration or renewal of such registration, in such manner and within such period as may be prescribed:

Provided that any person may buy agricultural produce in the market yard/sub market yard on day-to-day basis without getting himself registered:

Provided further that any person who desires to carry on trade or transact, in any notified agricultural produce in more than one market area, shall get himself registered, for that respective function, with the prescribed authority.

(2) Every application for registration or renewal of registration shall be accompanied with such fee as the Government may prescribe.

(3) The Marketing Board may, on receipt of an application for registration or renewal of registration, together with the fees prescribed therefor, grant a certificate of registration or renewal, as the case may be, for such period as may be prescribed.

(4) The Marketing Board may refuse to register or refuse to renew the registration on any of the following grounds:—

(i) the applicant is a minor or the application is not bonafide;

(ii) the applicant has been declared defaulter under any Act or rules on bye-laws made thereunder;

(iii) the applicant has been found guilty under this Act.

(5) (i) The application received under sub-section (1) shall be disposed off by the Marketing Board within four weeks from the date of its receipt, but if the Marketing Board fails to dispose off any application within such four weeks time then the applicant shall remind, in writing the Marketing Board, in respect of his application; and the applicant shall also inform about the same, in writing, to the authority specified by the Secretary of the Marketing Board in this regard.

(ii) On expiry of the period of two weeks from the date of receipt of the reminder by the Marketing Board and receipt of information by such authority, if the application is not disposed off, it shall be deemed that the registration or its renewal, as the case may be, has been granted.

(iii) The authority, on the basis of information received by it and after expiry of period of two weeks specified above, shall confirm that the application for registration/renewal was submitted to the Marketing Board and due action has not been taken by the Marketing Board for disposal of the same and then it shall issue a certificate as per clause (ii) of sub-section (5) regarding grant of deemed registration or its deemed renewal within two weeks time.

(6) The registration granted or renewed under this section shall be subject to the provisions of this Act, and the rules and bye-laws made thereunder.

(7) No commission agent shall act in any transaction between the agriculturist, seller, trader or purchaser or on their behalf, nor shall he deduct any amount towards commission from the sale proceeds payable to the agriculturist, seller, trader or purchaser.

52. *Establishment of private yard, and direct purchase of agricultural produce from agriculturist (direct purchasing from producer).*— The State Marketing Officer may grant a license to purchase agricultural produce, by establishing private yard, directly from the agriculturist, in one or more market areas for,—

- (a) the purpose of processing the notified agricultural produce;
- (b) trade of notified agricultural produce of particular specification;
- (c) export of notified agricultural produce;
- (d) grading, packing and any other activity so as to add value to agricultural produce.

53. *Establishment of consumer/farmer market (Direct sale by the producer).*— (i) Consumer/Farmer market may be established by developing infrastructure as prescribed, by any person in any market area and that the producer of agricultural produce himself may sell his produce as prescribed directly to the consumer at such place:

Provided that the consumer shall not purchase the agricultural produce more than the prescribed quantum in the consumer market.

(2) Market service charge shall be collected on sale of the agricultural produce by the seller and shall be remitted to the proprietor of the consumer market.

(3) Save as otherwise provided in this Act, no market fee shall be leviable on the transaction undertaken in the consumer/farmer market.

(4) License for establishment of consumer/farmer market shall be granted by the Government.

54. *Grant/renewal of license of private yard/consumer/farmer market and weighman.*— (1) Any person who, under section 52 desires to

purchase notified agricultural produce directly from the agriculturist or wishes to establish a private yard or under section 53 desires to establish a consumer/farmer market in one or more than one market area, shall apply to the State Marketing Officer for grant of licence or renewal of such license, as the case may be, in the manner and for the period, as may be prescribed.

(2) Alongwith every such application for license or renewal of license, fees as prescribed, shall be deposited.

(3) The State Marketing Officer may, on receipt of an application for grant of license or renewal of license together with the prescribed fees therefor, grant a license or renew it, as the case may be, for such period as may be prescribed.

(4) Application received under sub-section (1) for grant of license or renewal of such license may be rejected with reasons in writing. Such application may be rejected on any of the following grounds:—

- (i) the Marketing Board's dues are outstanding against the applicant;
- (ii) the applicant is minor or the application is not bonafide;
- (iii) the applicant has been declared defaulter under any Act or rules and bye-laws made thereunder;
- (iv) the applicant has been declared guilty in any criminal case and convicted by imprisonment;
- (v) any other ground, as may be prescribed.

(5) The license granted or renewed under this section shall be subject to the provisions of this Act, rules or bye-laws made thereunder.

55. *Power to cancel or suspend license/registration.*— (1) Subject to the provisions of sub-section (4), the State Marketing Officer or the Marketing Board who has issued license or registration, as the case may be, may, for reasons to be communicated to the license holder/registration holder in writing, suspend or cancel, license/registration, if,—

- (a) the license or registration has been obtained through willful misrepresentation or fraud; or

(b) the holder of the license or registration or any of his servants or any one acting on his behalf with his express or implied permission, commits breach of any of the terms or conditions of license/registration; or

(c) the holder of the license/registration in combination with other license/registration holder commits any act or abstains from carrying on his normal business in the market area with the intention of willfully obstructing, suspending or stopping the marketing of notified agricultural produce in the market yard/ sub market yard as a consequence of which the marketing of any notified agricultural produce has been obstructed, suspended or stopped; or

(d) the holder of the license/registration has been adjudged as an insolvent; or

(e) the holder of the license/registration incurs any disqualification, as may be prescribed; or

(f) the holder of license/registration is convicted of any offence under this Act.

(2) Subject to the provisions of sub-section (4), the Chairman or Secretary of the Marketing Board may, for reasons to be communicated in writing to the registration holder, by order, suspend registration for a period not exceeding one month on any reasons for which the Marketing Board may suspend a registration under sub-section (1):

Provided that such order shall cease to have effect on expiry of a period of ten days, from the date on which it is made, unless confirmed by the Marketing Board before expiry of such ten days.

(3) Notwithstanding anything contained in sub-section (1) but subject to the provisions of sub-section (4), the State Marketing Officer may, for reasons to be communicated in writing to the registration holder, by order, suspend or cancel the registration granted or renewed by the Marketing Board:

Provided that no order under this sub-section shall be made without giving notice to the Marketing Board.

(4) No license or registration shall be suspended or cancelled under this section without giving a reasonable opportunity to its holder to show cause against such suspension or cancellation.

56. *Appeal.*— (1) Any person aggrieved by an order, passed under sections 51, 54 or 55, as the case may be, prefer an appeal in such manner, as may be prescribed,—

(a) to the State Marketing Officer, where such order is passed by the Chairman/Secretary of the Marketing Board, within seven days of receipt of the order;

(b) to the State Marketing Officer, where such order is passed by the Marketing Board, within thirty days of receipt of the order; and

(c) to the Government, where such order is passed by the State Marketing Officer, within thirty days of receipt of the order.

(2) The Appellate Authority, if it considers necessary to do so, grant a stay of the order appealed against for such period as it may deem fit.

(3) The order passed by the Chairman/Secretary of the Marketing Board or the Marketing Board or the State Marketing Officer shall, subject to the order in the appeal under this section, be final and shall not be called in question in any Court of law.

57. *Redressal of dispute between Farmer market or Consumer market and Marketing Board.*— (1) Dispute between the farmer market or consumer market and Marketing Board shall be referred to the State Marketing Officer or his representative or any other officer authorized by the Government in this regard. The dispute shall be resolved after giving both parties a reasonable opportunity of being heard, in the manner prescribed.

(2) The decision given by the authority under sub-section (1) above shall be final and shall not be called in question in any Court of law.

58. *Prohibition of trade allowances other than those specified under this Act.*— No trade allowance or deduction, other than specified by or under this Act, shall be made or received by any person in any market area in any transaction in respect of the notified agricultural produce and no civil Court, shall, in any suit or proceeding arising out of any such transaction, have regard to any trade allowance not so specified.

59. *Submission of annual account by licensee/registered functionaries and assessment of market fee.*— (1) Every trader, processor, proprietor of a private yard, proprietor of consumer/farmer market or commission agent connected with the business of notified agricultural produce shall before the 30th June of every year submit to the Secretary of the Marketing Board, a statement of transactions undertaken by or through him during the previous financial year ending on 31st March in the prescribed manner.

(2) The Secretary of the Marketing Board shall accept or reject the statement submitted to him under sub-section (1) after necessary examination and verification on the basis of information available in the Marketing Board and shall assess the balance amount payable by the functionary and levy the assessed amount.

(3) Any person aggrieved by the proceedings of the Secretary, may within 30 days from the date of receipt of notice by him, appeal to the Marketing Board.

(4) An officer authorized by the Government may, on his own motion or on an application made to the Government, start the process of re-verification of the statement which was verified by the Secretary, within two years from the date of verification made by the Secretary and for this purpose such officer shall exercise the powers under section 36 of this Act.

(5) The re-verification made by the Officer authorized by the Government, shall be final.

60. *Assessment of market fees payable to Marketing Board by the licensed/registered functionaries.*— If any person required to produce accounts or furnish information under sub-section (1) of section 59 fails to produce such accounts or to furnish information or knowingly furnishes incomplete or incorrect account or information or has not maintained proper accounts of the business of the notified agricultural produce, then, the Secretary of the Marketing Board on his own motion, shall assess such person for levying fees levied under section 34 on the basis of the information available with the Marketing Board.

CHAPTER IX

Penalties

61. *Penalty for contravention of Act, rules and bye laws.*— Any person who contravenes any provisions of this Act or of any rule or bye-laws or order issued thereunder shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

62. *Recovery of market dues.*— Whenever any person is convicted of any offence punishable under this Act, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the Marketing Board the amount of fees or any other amount due from him under this Act or rules or bye-laws made thereunder and may, in his discretion, also recover and pay over to the Marketing Board costs of the prosecution.

63. *Cognizance of offences.*— No Court shall take cognizance of any offence punishable under this Act or any rule or any bye-laws made thereunder except on the complaint made by the Collector or the Chairman, Vice-Chairman, Secretary of the Marketing Board or by any person duly authorized by the Marketing Board in this behalf or by the State Marketing Officer.

CHAPTER X

Control

64. *Inspection of markets and inquiry into the affairs of the Marketing Board.*— (1) The State Marketing Officer may:—

(a) inspect or cause to be inspected the accounts and offices of the Marketing Board;

(b) hold inquiry into the affairs of the Marketing Board;

(c) call from the Marketing Board, return, statement, accounts or reports which he may think fit to require the Board to furnish;

(d) require the Marketing Board to take into consideration.—

(i) any objection, on the ground of illegality, inexpediency or impropriety which appears to him to exist, to the doing of anything or

which is about to be done or is being done by or on behalf of the Board;

(ii) any information he is able to furnish and which appears to him to necessitate the doing of a certain thing by the Board;

(e) direct that, anything which is about to be done or is being done, should not be done, pending consideration of the reply and anything which should be done but is not being done should be done within such time as he may direct.

(2) When the affairs of the Marketing Board are investigated under this section or the proceedings of the Marketing Board are examined by the State Marketing Officer under section 69, the Chairman, Vice-Chairman, Secretary and all other officers, servants and members of the Board shall furnish such information in their possession in regard to the affairs or proceedings of the Marketing Board as the State Marketing Officer, may require.

(3) The State Marketing Officer, while investigating the affairs of the Marketing Board under sub-section (1), shall have power to summon and enforce the attendance of officers or members of the Marketing Board and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the Code of Civil Procedure, 1908 (5 of 1908).

(4) Where the State Marketing Officer has reason to believe that the books and records of the Marketing Board are likely to be tampered with or destroyed or the funds or property of the Marketing Board are likely to be misappropriated or misapplied, the State Marketing Officer may issue order directing a person duly authorized by him in writing to seize and take possession of such books and records, funds and property of the Marketing Board and the officer or officers of the Marketing Board responsible for the custody of such books, records, funds and property shall give delivery thereof to the person so authorized.

65. *Powers to remove a member of the Marketing Board.*— (1) The State Marketing Officer may remove a member, Chairman, or Vice-Chairman of the Marketing Board where he is of the opinion that:—

(a) such member, Chairman or Vice-Chairman has been guilty for misconduct or for gross negligence of his duty as member, Chairman or Vice-Chairman;

(b) such member, Chairman or Vice-Chairman has ceased to hold the qualification necessary for his being a member, Chairman or Vice-Chairman, as the case may be.

(2) No order of removal under sub-section (1) shall be passed unless the person concerned has been given a reasonable opportunity of submitting an explanation in respect of the allegations against him.

(3) The State Marketing Officer may suspend any member or Chairman or Vice-Chairman of the Marketing Board, who has been served with the notice under sub-sections (1) and (2) or against whom any complaint has been received or who commits irregularities for a period from the date of issue of notice or of receipt of complaint or from the date of noticing of irregularities by the State Marketing Officer till the final decision is taken in the case.

66. *Supersession of the Marketing Board.*— Where the Government is of the opinion that the Marketing Board has failed in the performance of its functions or discharge of its duties or has exceeded or abused the powers conferred on it by or under this Act, it may, by notification in the Official Gazette, supersede the Marketing Board:

Provided that no order of supersession shall be passed unless the Government has accorded reasonable opportunity to the Marketing Board of submitting a written explanation in respect of the allegations against it.

67. *Consequence of supersession of Marketing Board.*— Upon publication of the notification superseding the Marketing Board under section 66, the following consequences shall ensue:—

(i) all the members including the Chairman, Vice-Chairman of the Marketing Board shall, as from the date of publication of the notification, be deemed to have vacated their offices;

(ii) the Government shall direct that steps be taken for constitution of new Marketing Board under section 12 and till the time a new Marketing Board under section 12 is constituted

as aforesaid, the State Marketing Officer shall make such arrangements for carrying out the functions of the Marketing Board as he may deem fit for a period not exceeding six months and for that purpose, he may direct that all the functions, powers and duties of the Marketing Board and its Chairman under this Act, shall be performed, exercised and discharged by such person or authority as the State Marketing Officer may appoint in this behalf and such person or authority shall be deemed to be Marketing Board or Chairman, as the case may be.

68. Power of State Marketing Officer to direct Marketing Board for amending bye-laws.— (1) If it appears to the State Marketing Officer that it is necessary or expedient in the interest of a market or of the Marketing Board to make any bye-laws or to amend any bye laws, he may, by order require the Marketing Board to make such bye-laws or to carry out amendment to the bye laws within such time as he may specify in such order.

(2) If the Marketing Board fails to make such bye laws or such amendment in the bye laws within the time specified, the State Marketing Officer may, after giving the Marketing Board a reasonable opportunity of being heard, by order, make such bye laws or carry out such amendment to the bye-laws and thereupon subject to any order under sub-section (3), such bye-laws or such amendment to the bye-laws shall be deemed to have been made or amended by the Marketing Board in accordance with the provisions of this Act or the rules made thereunder and thereupon such bye-laws or amended bye-laws shall be binding on the Marketing Board.

(3) An appeal shall lie to the Government from any order of the State Marketing Officer under sub-section (1) within thirty days from the date of such order and the decision of the Government on such appeal shall be final.

69. Power of the State Marketing Officer to prohibit execution of resolution passed or order made by the Marketing Board.— (1) The State Marketing Officer may, on his own motion or on report or complaint received, by order, prohibit the execution of a resolution passed or order made by the Marketing Board or its Chairman or any of its officers or servants, if he is of the opinion that such resolution or order is prejudicial to the public interest or is likely to hinder efficient running

of the business in any market area, principal market yard or sub market yard or is against the provisions of this Act or the rules or bye laws made thereunder.

(2) Where the execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Board, if so required by the State Marketing Officer, to take such action, as the Board would have been entitled to take if such resolution or order had never been passed or made, which is necessary for preventing the Chairman or any of its officers or servants from doing or continuing to do anything under such resolution or order.

70. Power to call for proceedings of Marketing Board and the State Marketing Officer.— (1) The State Marketing officer may, on his own motion or on an application made to him, call for and examine the proceedings of the Marketing Board and the Government may on its own motion or on application made to it, call for and examine the proceedings of the State Marketing Officer, for the purpose of satisfying himself or itself, as the case may be, as to the legality or propriety of any decision taken or order passed and as to the regularity of the proceedings of the Board or the State Marketing Officer, as the case may be. If, upon examination, it appears to the State Marketing Officer or the Government that any such decision, order or proceedings should be modified, annulled, reversed or remitted for reconsideration, he or it, as the case may be, may pass such order thereof as deemed fit:

Provided that every application to the Government for the exercise of the powers under this section shall be filed within sixty days from the date on which the decision or order to which the application relates was communicated to the applicant:

Provided further that no such order shall be passed under sub-section (1) without giving a reasonable opportunity of being heard to the parties affected thereto.

(2) The Government or the State Marketing Officer, as the case may be, may suspend the execution of the decision taken or order passed by the State Marketing Officer or the Marketing Board, pending the exercise of its/his powers under sub-section (1).

71. Liability of Chairman, Vice-Chairman, members and employees for loss, waste or misappropriation, etc.— (1) In the course of the inquiry or inspection under section 64 or in the course of the audit under this Act, in case if it is found that any person who is or was entrusted with the management of the Marketing Board or any deceased, past or present Chairman, Vice-Chairman, member, officer incharge of the Marketing Board or any other officer or employee of the Marketing Board or an officer of the Government, has made or directed by assenting or concurring or participating in any affirmative vote or proceeding related thereto, any payment or application of any money or other property belonging to or under the control of the Marketing Board to any purpose, contrary to the provisions of this Act or rules or bye-laws made thereunder or has caused any deficiency or loss by gross negligence or misconduct or has misappropriated or fraudulently retained any money or other property belonging to the Marketing Board, the State Marketing Officer may, on his own motion or on application, inquire himself or direct any officer subordinate to him duly authorized by him by an order in writing in this behalf to inquire into, the conduct of such persons, within two years of the date of report of audit, inquiry or inspection, as the case may be.

(2) If, upon an inquiry made under sub-section (1), the State Marketing Officer is satisfied that there are good grounds for an order under this sub-section, he may make an order requiring such person or in the case of a deceased person, his legal representative, who inherits his estate, to repay or restore the money or property or any part thereof, with interest at such rate or to pay contribution and costs or compensation to such extent as the State Marketing Officer may consider just and equitable:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard in the matter:

Provided further that the liability of a legal representative of the deceased shall be limited to the extent of the property of the deceased which is inherited by such legal representative.

(3) Any person aggrieved by an order made under sub- section (2), may, within thirty days from the date of communication of the order to him,

appeal to the Government and the order of the Government in such appeal shall be final and conclusive.

(4) No order passed under sub-section (2) or sub-section (3) shall be called in question in any Court of law.

(5) Any order made under sub-section (2) or sub- section (3) shall, on the application of the State Marketing Officer, be enforced by a Civil Court, having jurisdiction in the same manner as if it is a decree of such Count and any sum directed to be paid by such order may be recovered as arrears of land revenue.

(6) The State Marketing Officer may, if he is satisfied on affidavit, inquiry or otherwise, that any person with intention to delay or obstruct the enforcement of any order passed against him under this section is about to dispose of the whole or any part of his property or is about to remove the whole or any part of his property from the State, unless adequate security is furnished, direct the conditional attachment of such property or any part thereof as he thinks necessary and such attachment shall have the same effect as if it is made by a competent Civil Count.

72. Power of the Government to amend Schedule.— (1) The Government may, by notification, add to or omit from or amend any of the items of agricultural produce specified in the Schedule to this Act and thereupon the said Schedule shall be deemed to have been amended accordingly:

Provided that no notification shall be issued by Government under this section without giving previous publication in the Official Gazette of not less than forty five days, of its intention to issue such notification.

73. Power of Government to give directions.— (1) The Government may give directions to the Marketing Board.

(2) The Marketing Board shall be bound to comply with the directions issued by the Government under sub-section (1).

74. Recovery of sums due to the Marketing Board.— Any sum due to the Marketing Board on account of any charge, costs, expenses, fees, rent or on any other account under the provisions of

this Act or any rule or bye laws made thereunder shall be recoverable in the same manner as arrears of land revenue.

75. Chairman, Vice-Chairman, members, officers and servants of the Marketing Board to be public servants.— The Chairman, Vice-Chairman, members, Secretary, other officers and servants of the Marketing Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

76. Delegation of powers.— (1) The Government may delegate to any of its officer not below the rank of State Marketing Officer any of the powers conferred on it by or under this Act other than the power to make rules under section 81.

(2) The State Marketing officer may delegate any of his powers to any officer of the Government not below the rank of Assistant Registrar of Co-operative Societies.

77. Bar to civil suit and protection to persons acting in good faith.— No suit, prosecution or legal proceedings in respect of anything done in good faith or intended to be done in good faith under this Act or rules, or bye-laws made thereunder, shall lie against the State Marketing Officer or officers of the Government or against the Marketing Board or any person acting under and in accordance with the directions of the State Marketing Officer, Government or the Board.

78. Bar to suit in absence of notice.— Notwithstanding anything contained in any other law, no suit shall be instituted against the Board, until the expiration of two months from the date of notice in writing stating the cause of action, name and place of abode/office of the intending plaintiff and the relief which he claims has been delivered or left at the office of the Board. Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the cause of action.

79. Duty of local authority to give information and assistance.— (1) It shall be the duty of every local authority to give all the necessary information, in its possession or under the control of its officers, to the Marketing Board or its officers authorized in that behalf, relating to the movement of agricultural produce into or out of the area of the local authority free of any charges.

(2) It shall also be the duty of every local authority and its officers and staff concerned to give all the possible assistance to any officer of the Marketing Board in exercise of his powers and discharging his duties under this Act.

80. Act's not to be invalidated by informality, vacancy, etc.— No act done or proceeding taken under this Act by the Board shall be invalidated merely on the ground of,—

(a) any vacancy or defect in the constitution of the Marketing Board;

(b) any defect or irregularity in the appointment of the person acting as a member thereof;

(c) any defect or irregularity in such act or proceedings, not affecting the substance.

CHAPTER XI

Rules and Bye-Laws

81. Power to make rules.— (1) The Government may, by notification in the Official Gazette and after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters:—

(i) other manner of publication of notification as provided in sub-section (1) of section 3;

(ii) the manner of election of female agriculturists as members on the Marketing Board, as provided in clause (b) of sub-section (1) of section 12;

(iii) the manner of election of members as provided in sub-section (1) of section 13;

(iv) the period during which a Chairman or a Vice-Chairman shall hold office as provided in section 21;

(v) the limit of the total amount of honorarium to be paid to the Chairman and the Vice-Chairman of the Marketing Board as provided in section 23;

(vi) the manner of periodical inspection of all weights and measures and weighing and measuring instruments in use in a market area, as provided in section 32 (2) (u) and

(vii) the matters subject to which the powers conferred on the Secretary of the Marketing Board under section 42 shall be exercised as provided in sub-section (3) of section 42;

(viii) form of budget of the Marketing Board and the date for submitting the same to the State Marketing Officer as provided in sub-section (1) of section 43;

(ix) the manner in which the amount to the credit of the Marketing Board Fund shall be invested as provided in sub-section (1) of section 44 and the manner in which the money received by the Marketing Board as stated in sub-section (2) of section 44 shall be kept as provided in that sub-section;

(x) the use of the Marketing Board Fund for making contribution to the National Council of State Agricultural Marketing Board, as provided in item (xi) of sub-section (1) of section 45;

(xi) the manner of settling price of notified agricultural produce in the private yard, as provided in sub-section (3) of section 48;

(xii) all matters as stated in sections 51, 53 and 54;

(xiii) the manner of filing appeal as provided in section 56;

(xiv) the manner of resolving dispute as provided in section 57;

(xv) any other matter which has to be, or may be, prescribed.

(3) In making any rule, the Government may direct that breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Goa.

82. *Power to make bye-laws.*—(1) Subject to the provisions of this Act and the rules made thereunder, the Marketing Board may, in respect

of marketing area under its management, make bye laws for:—

(i) the regulation of business of the Marketing Board;

(ii) the conditions of trading in a market;

(iii) the delegation of powers, duties and functions to the officers and servants, appointment, pay, punishment, pension, gratuity, leave, leave allowances, contribution by them to any provident fund which may be established for the benefit of such officers and servants and other conditions of service;

(iv) the delegation of powers, duties and functions to a sub committee, if any;

(v) market functionaries who are required to obtain licence under this Act;

(vi) enabling and regulating e-trading;

(vii) any other matter for which bye laws are required to be made under this Act or it may be necessary to frame bye-laws for effectively implementing the provisions of this Act and the rules made thereunder in the market area.

(2) No bye laws made under sub section (1) shall take effect until they have been approved by the State Marketing Officer.

(3) In making any bye laws, the Marketing Board may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees and where the breach is a continuing one, with further fine which may extend to ten rupees for everyday during the period when such breach continues.

CHAPTER XII

Repeal and Savings

83. *Repeal and Savings.*—(1) The Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Act No. XX of 1964), as extended to the State of Goa, is hereby repealed.

(2) Notwithstanding such repeal,—

(i) anything done or any action taken (including any appointment, delegation or

declaration made, notification, rule, direction or notice issued, bye-laws framed, market area, markets, sub-markets, market yards and sub-market yards declared, established or notified, licences granted, fees levied and collected, instruments executed, any fund established or constituted) by or under the provisions of the repealed Act, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(ii) unless the Government otherwise directs, the Marketing Board constituted under the repealed Act, the Chairman, Vice-Chairman and members appointed shall continue to exercise their powers until the expiry of their term under the repealed Act or till the Marketing Board is constituted in accordance with the provisions of this Act, whichever is earlier.

(3) On issue of directions under clause (ii) of sub-section (2), the provisions of this section shall apply as from the date specified in the direction as if the Marketing Board stood dissolved on that date.

84. Power to remove difficulty.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing such difficulty:

Provide that no such order shall be made under this section after the expiry of two years from the date of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Goa.

SCHEDULE

[See Sections 2 (A) and 72]

(I) FIBRES:

(1) Cotton (ginned and unginned).

(II) CEREALS:

(1) Wheat (husked and unhusked).
(2) Paddy (husked and unhusked).

- (3) Jowar.
- (4) Bajri.
- (5) Vari.
- (6) Maize.
- (7) Sarsav.
- (8) Barley.
- (9) Ragi.

(III) PULSES:

- (1) Tur.
- (2) Gram.
- (3) Udid.
- (4) Mung.
- (5) Lang.
- (6) Peas.
- (7) Kulthi.
- (8) Splits (Dal of pulses).
- (9) Masur.
- (10) Ghevda Beans.

(IV) OILSEEDS:

- (1) Groundnut (shelled and unshelled).
- (2) Linseed.
- (3) Sesame.
- (4) Sunflower.
- (5) Ambadi.
- (6) Coconut (husked and unhusked).
- (7) Tender Coconut.
- (8) Copra.
- (9) Cotton seed.
- (10) Kokum (and it's products).

(V) NARCOTICS:

- (1) Tobacco and it's products.

(VI) Gur, Sugar and Sugarcane

(VII) FRUITS:

- (1) Mango and it's products.
- (2) Mosambi (sweet lime).
- (3) Santra (Orange).
- (4) Lemon.
- (5) Banana.
- (6) Grapes.
- (7) Chickoo.
- (8) Melon.
- (9) Water Melon.
- (10) Papaya.
- (11) Guava.
- (12) Bor.
- (13) Pineapple.
- (14) Jackfruit including it's products.
- (15) Cashew Apple.
- (16) Apple.

(VIII) VEGETABLES:

- (1) Potato.
- (2) Onion.
- (3) Tomato.
- (4) Suran.
- (5) Leafy and fresh vegetables.
- (6) Yam Potato.
- (7) Sweet Potato.
- (8) Ulsande.
- (9) Ladies finger.
- (10) Brinjal.
- (11) Cucumber.
- (12) Pumpkin.
- (13) Carrot.
- (14) Raddish.

(IX) ANIMAL HUSBANDRY PRODUCTS:

- (1) Eggs.
- (2) Poultry.
- (3) Cattle.
- (4) Sheep.
- (5) Goat.
- (6) Pigs.
- (7) Wool.
- (8) Butter.
- (9) Ghee.
- (10) Milk.
- (11) Hides and Skins.

(X) CONDIMENTS, SPICES AND OTHERS:

- (1) Turmeric.
- (2) Ginger.
- (3) Garlic.
- (4) Corriander.
- (5) Chilli.
- (6) Cardaman and Pepper.
- (7) Variali.
- (8) Betelnut.
- (9) Betel leaves.
- (10) Raw Cashewnuts (including processed).
- (11) Cumin (Jira).
- (12) Rai (mustard).
- (13) Methi.
- (14) Isabgul.
- (15) Ásarios.
- (16) Musli.
- (17) Gum.
- (18) Tamarind.
- (19) Arecanut (Beda).
- (20) Kokam Sol and Seed.

(XI) GRASS AND FODDER:**(XII) CATTLE FEEDS:**

- (1) Guwar.
- (2) Punvad.

(XIII) APICULTURE:

- (1) Honey.

(XIV) PISCICULTURE:

- (1) Fish.
- (2) Fish processed (canned).

(XV) SERICULTURE:

- (1) Silk.

(XVI) FOREST PRODUCE:

- (1) Hilda.
- (2) Gum.
- (3) Bidi leaves.
- (4) Lac.
- (5) Bamboo.
- (6) Karmal.
- (7) Bimal.
- (8) Ambada.
- (9) Timber and Firewood.

(XVII) EDIBLE OILS:

- (1) Coconut oil.
- (2) Groundnut oil.
- (3) Palm oil.

(XVIII) OTHERS:

- (1) Flowers.

Secretariat, ANUJA PRABHU DESSAI
Porvorim-Goa. Secretary to the Government of Goa,
Dated: 6-8-2007. Law Department (Legal Affairs).

Notification

7-5-2007-LA

The Goa Information Technology Development Act, 2007 (Goa Act 10 of 2007), which has been passed by the Legislative Assembly of Goa on 25-1-2007 and assented to by the Governor of Goa on 1-8-2007, is hereby published for general information of the public.

Sharad G. Marathe, Joint Secretary (Law).

Porvorim, 6th August, 2007.

THE GOA INFORMATION TECHNOLOGY
DEVELOPMENT ACT, 2007

(Goa Act 10 of 2007) [1-8-2007]

AN

ACT

To make special provision for securing the orderly establishment of Integrated Information Technology Township/Information Technology Parks in the State of Goa, to assist generally in the organization thereof, and for that purpose to establish an Information Technology Development Corporation, and for purposes connected with the matters aforesaid.

Be it enacted by the Legislative Assembly of Goa in the fifty seventh year of the republic of India as follows:

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Information Technology Development Act, 2007.

(2) It extends to the whole of the State of Goa.

(3) It shall be deemed to have come into force with effect from 25th November, 2006.

2. *Definitions.*— In this Act, unless the context otherwise requires,

(a) "amenity" includes road, supply of water or electricity, street lighting, drainage, sewage, conservancy and such other connivance as the Government may, by notification in the Official Gazette, specify to be an amenity for the purposes of this Act;

(b) "building" means any structure or erection, or a part of a structure or erection, which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(c) "Collector" means the Collector of the district, and includes any Officer specially appointed by the Government to perform the functions of a Collector under this Act;

(d) "Corporation" means the Goa Information Technology Development Corporation established under section 3;

(e) "development" with its grammatical variations, means the carrying out of building, engineering, quarrying or other operations, in, on, over or under land, or the making of any material change on any building or land, and includes re-development, but does not include mining operations and "to develop" shall be construed accordingly;

(f) "engineering operation" include the formation or laying out of means of access to a road or the laying out of means of water supply;

(g) "Integrated IT Township/IT Parks" means any site selected by the Government where the Corporation shall develop plots, build factories other buildings and make them available for Integrated Information Technology Township/Information Technology Parks;

(h) "means of access" includes a road, wharf or any means of access, whether private or public, for vehicles or boats or for foot passengers;

(i) "premises" means any land or building or part of a building and includes;

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(j) "prescribed" means prescribed by rules made under this Act;

(k) the expression "land" and the expression "person interested" shall have the meanings respectively assigned to them in section 3 of the Land Acquisition Act, 1894 (1 of 1894);

(l) "Government" means the Government of Goa.

CHAPTER II

Establishment and Constitution of the Corporation

3. *Establishment and incorporation.*— (1) For the purpose of securing and assisting in the rapid and orderly establishment and organization of Integrated Information Technology Township/Information Technology Parks, there shall be established by the Government, by notification in the Official Gazette, a Corporation by the name of the Goa Information Technology Development Corporation.

(2) The said Corporation shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire, hold and dispose of property, both movable and immovable, and to contract, and do all things necessary for the purposes of this Act.

4. *Constitution.*— (1) The Corporation shall consist of the following ten Directors, that is to say—

(a) Minister in charge of Information Technology Department.

(b) Four Directors to be nominated by the Government.

(c) Secretary to the Government of Goa in the Finance Department.

(d) Secretary to the Government of Goa in the Information Technology Department.

(e) Director of Information Technology.

(f) Managing Director, Goa Industrial Development Corporation (GIDC).

(g) Managing Director, Goa Information Technology Development Corporation (GITDC).

(2) The Minister in-charge of the Information Technology Department will be the Chairman of the Corporation.

(3) The Government shall appoint one of the Directors of the Corporation to be the Vice-Chairman of the Corporation.

5. *Disqualification for Director.*— A person shall be disqualified for being nominated as a Director of the Corporation, if he—

(a) is an employee of the Corporation, not being the Managing Director, or

(b) is of unsound mind, and stands so declared, by a competent Court; or

(c) is an undischarged insolvent, or

(d) is convicted of an offence involving moral turpitude within a period of five years immediately before his being nominated as Director.

6. *Term of office and conditions of service of Director.*— (1) The Chairman and Directors of the Corporation nominated under clause (b) of sub-section (1) of section 4, shall hold office for a period of 3 years from the date of their nomination unless their term of office is terminated earlier by the Government.

(2) The Directors of the Corporation nominated under clause (b) of sub-section (1) of section 4 shall be entitled to draw such honorarium or compensatory allowance for the purpose of meeting the personal expenditure in attending the meetings of the Corporation or of any Committee thereof or when appointed in connection with the work undertaken by or for the Corporation as may be prescribed by the Government from time to time.

(3) It is hereby declared that the office of Director or Chairman of the Corporation, in so far as it is an office of profit under the Government of India, or the Government of any State, or the Government of any Union Territory, shall not disqualify the holder for being chosen as, and for being a member of, the Legislative Assembly of Goa.

7. *Meetings of Corporation.*— (1) The Corporation shall meet at such times and places, and shall, subject to the provisions of sub-section (2), observe such rules of procedure in regard to the transaction of its business as may be provided by regulations made under this Act.

(2) A Director, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into by or on behalf of the Corporation shall, at the earliest possible opportunity, disclose the nature of his interest to the Corporation when any such contract, loan, arrangement or proposal is discussed.

8. *Cessation of Director.*— (1) If a Director,

(a) becomes, subject to any of the disqualifications mentioned in section 5; or

(b) tenders his resignation in writing to, and such resignation is accepted by the Government; or

(c) is absent without the Corporation's permission from three consecutive meetings of the Corporation, or from all meetings of the Corporation for three consecutive months; or

(d) is convicted of an offence involving moral turpitude, he shall cease to be a Director of the Corporation.

(2) The Government may, by order, suspend from office for such period as it thinks fit or remove from office any Director of the Corporation, who in its opinion,—

(a) has refused to act; or

(b) has become incapable of acting; or

(c) has so abused his position as Director as to render his continuance on the Corporation detrimental to the interest thereof or of the general public, or

(d) is otherwise unfit to continue as a Director:

Provided that, a Director shall not be suspended or removed from office unless he has been given reasonable opportunity to show cause against the order.

9. *Vacancies how to be filled.*— Any vacancy of a Director of the Corporation shall be filled as early as practicable, in like manner as if the appointment was being made originally:

Provided that during any such vacancy, the continuing Directors may act as if no vacancy had occurred.

10. *Temporary absence of Directors.*— (1) If the Chairman or any other Director of the Corporation is by reason of illness or otherwise rendered temporarily incapable of carrying out his duties, or is granted leave of absence by the Government, or is otherwise unable to attend his duties in circumstances not involving the cessation of his Directorship, the Government may appoint another

person to act for him and carry out his duties and functions by or under this Act. Such person shall vacate office on the date when the Director for whom he is acting resumes his duties.

(2) In the absence of the Chairman, the Directors present shall choose the Presiding Officer to preside over the meeting.

11. *Proceeding presumed to be good and valid.*— No disqualification of, or defect in the appointment of, any person acting as the Chairman or as a Director of the Corporation, shall vitiate any act or proceeding of the Corporation if such act or proceeding is otherwise in accordance with the provisions of this Bill.

12. *Officers and servants of the Corporation.*—

(1) The State Government shall appoint a Managing Director and a Chief Accounts Officer of the Corporation.

(2) The Corporation may appoint, such other officers and servants, subordinate to the officers mentioned in sub-section (1), as it considers necessary for the efficient performance of its duties and functions.

(3) The conditions of appointment and service of the officers and servants of the Corporation and their scales of pay shall,—

(a) as regards the Managing Director and the Chief Accounts Officer, be such as may be prescribed; and

(b) as regards the other officers and servants, be such as may be determined by regulations made under this Act.

CHAPTER III

Functions and Powers of the Corporation

13. *Functions.*— The functions of the Corporation shall be,—

(i) generally to promote and assist in the rapid and orderly establishment, growth and development of Integrated IT Townships/IT Parks in the State of Goa.

(ii) In particular, and without prejudice to the generality of clause (i), to—

(a) establish and manage Integrated IT Township/IT Parks at places selected by the Government;

(b) develop areas selected by the Government for the above purpose and make them available for undertakings to establish themselves;

(c) undertake schemes or works, either jointly or on agency basis, with other corporate bodies or institutions, or with Government in furtherance of the purposes for which the Corporation is established and all matters connected therewith.

(iii) generally to support and assist the Government in development of e-Governance applications required to be developed to serve citizens and business.

(iv) In particular, and without prejudice to the generality of clause (iii), to—

(a) undertake software development projects selected by the Government.

(b) undertake the activities of providing required hardware to various Government departments as directed by the Government.

(c) undertake the activities of local area network and electrical cabling work required to connect IT hardware and UPS Etc. in various departments as directed by the Government.

(d) undertake above activities either directly or jointly or agency basis with other corporate bodies or institutions.

14. *General powers of the Corporation.*— Subject to the provisions of this Act, the Corporation shall have power,—

(a) to acquire and hold such property, both movable and immovable, as the Corporation may deem necessary for the performance of any of its activities, and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Corporation;

(b) to provide or cause to be provided amenities and common facilities in Integrated IT Township/IT Parks and construct and maintain or cause to be constructed and maintained works and buildings therefor;

(c) to make available buildings on hire or on sale to industrialists or persons intending to start Information Technology industries;

(d) to construct buildings for the housing of the employees;

(e) (i) to allot buildings or parts of buildings, including residential tenements to suitable persons in the Integrated IT Township/IT Parks established or developed by the Corporation;

(ii) to modify or rescind such allotments, including the right and power to evict the allottees concerned on breach of any of the terms or conditions of their allotment;

(f) to constitute advisory committee to advise the Corporation;

(g) to engage suitable consultants or persons having special knowledge or skill to assist the Corporation in the performance of its functions;

(h) subject to the previous permission of the Government, to delegate any of its powers generally or specially to any of its committees or officers, and to permit them to re-delegate specific powers to their subordinates;

(i) to enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of its functions; and

(j) to do such other things and perform such acts as it may think necessary or expedient for the proper conduct of its functions and the carrying into effect the purposes of this Act.

15. *Authentication of orders and documents of Corporation.*— All permissions, orders, decisions, notices and other documents of the Corporation shall be authenticated by the signature of the Managing Director of the Corporation or any other Officer authorised by the Corporation in this behalf.

16. *Directions by the Government.*— The Government may issue to the Corporation such general or special directions as to policy as it may think necessary or expedient for the purpose of carrying out the purposes of this Act, and the Corporation shall be bound to follow and act upon such directions.

CHAPTER IV

Finance, Accounts and Audit

17. *Application of Corporation's assets.*— All property, funds and other assets vesting in the Corporation shall be held and applied by it, subject to the provisions and for the purposes of this Act.

18. *Corporation's fund.*— (1) The Corporation shall have and maintain its own fund, to which shall be credited,—

(a) all monies received by the Corporation by way of grants, subventions, loans, advances or otherwise;

(b) all fees, costs and charges received by the Corporation under this Act;

(c) all monies received by the Corporation from the disposal of lands, buildings and other properties, movable and immovable, and other transactions;

(d) all monies received by the Corporation by way of rents and profits, or in any other manner or from any other source including the proceeds of any loan authorised by section 20.

(2) The Corporation may keep in current or in deposit account with the State Bank of India or any other Bank approved by the Government in this behalf such sum of money out of its fund as may be prescribed and any money in excess of the said sum shall be invested in such manner as may be approved by the Government.

(3) Such accounts shall be operated upon by such officers of the Corporation as may be authorised by it by regulations made in this behalf.

19. *Grants, subventions, loans and advances and capital contribution to the Corporation.*— The Government may, after due appropriation made by the Legislature by any law in this behalf, make such grants, subventions, loans and advances and capital contributions to the Corporation as it may deem necessary for the performances of the functions of the Corporation under this Act; and all grant, subventions, loans and advances and capital contribution made shall be on such terms and conditions as the Government may, after consulting the Corporation, determine.

20. *Power of the Corporation to borrow.*— The Corporation may, subject to such conditions as may be prescribed in this behalf, borrow money in the open market or otherwise with a view to providing itself with adequate resources.

21. *Deposits.*— The Corporation may accept deposits on such conditions as it deems fit from persons, authorities or institutions to whom allotment or sale of land, buildings or sheds is made

or is likely to be made in furtherance of the objects of this Act.

22. *Reserve and other funds.*— (1) The Corporation shall make provision for reserve and other specially denominated funds as the Government may, from time to time, direct.

(2) The management of the funds referred to in sub-section (1), the sums to be transferred from time to time to the credit thereof and the application of money comprised therein, shall be determined by the Corporation.

(3) None of the funds referred to in sub-section (1) shall be utilized for any purpose other than that for which it was constituted, without the previous approval of the Government.

23. *Expenditure from funds.*— (1) The Corporation shall have the authority to spend such sums as it thinks fit for the purposes authorised under this Act from and out of the general fund of the Corporation referred to in section 18 or from the reserve and other funds referred to in section 22, as the case may be.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the Corporation may contribute such sums as it thinks fit towards expenditure incurred or to be incurred by any local authority or statutory public undertaking in the performance of the statutory functions of such authority or undertaking, including expenditure incurred in the acquisition of land.

24. *Budget and programme of work.*— (1) The Corporation shall, by such date in each year as may be prescribed, prepare and submit to the Government for approval an annual financial statement and the programme of work for the succeeding financial year.

(2) The annual financial statement shall show the estimated receipts and expenditure during the succeeding financial year in such form and detail as may be prescribed.

(3) The Corporation shall be competent to make variations in the programme of work in the course of the year, provided that, all such variations and reappropriations out of the sanctioned budget are brought to the notice of the Government by a supplementary financial statement.

(4) A copy each of the annual financial statement and the programme of work and the supplementary financial statement, if any, shall be placed before the Legislative Assembly as soon as may be after their receipt by the Government.

25. *Accounts and audit.*— (1) The Corporation shall maintain books of accounts and other books in relation to its business and transaction in such form, and in such manner, as may be prescribed.

(2) The accounts of the Corporation shall be audited by an auditor appointed by the Government, in the prescribed manner.

(3) As soon as the accounts of the Corporation are audited, the Corporation shall send a copy thereof with a copy of the report of the auditor thereon to the Government.

(4) The Government shall cause the accounts of the Corporation together with the audit report thereon forwarded to it under sub-section (3) to be laid annually before the Legislative Assembly.

26. *Concurrent and special audit of accounts.*— (1) Notwithstanding anything contained in section 25, the Government may order that there shall be concurrent audit of the accounts of the Corporation by such persons as it thinks fit. The Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Corporation relating to any particular transaction or class or series of transaction or to a particular period.

(2) When an order is made under sub-section (1), the Corporation shall present or cause to be presented for audit such accounts and shall furnish the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

CHAPTER V

27. *Acquisition of land for the Corporation to be a public purpose.*— Any land required by the Corporation for carrying out any of its functions shall be deemed to be needed for a public purpose and may be acquired under the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894) or any other law for the time being in force.

28. *Disposal of land by the Corporation.*— (1) Subject to any directions given by the Government under this Act, the Corporation may dispose of,—

(a) any land acquired by the Government and transferred to it, without undertaking or carrying out any development thereon; or

(b) any such land after undertaking or carrying out such development as it thinks fit, to such persons in such manner and subject to such terms and conditions, as it considers expedient for securing the purposes of this Act.

(2) The powers of the Corporation with respect to the disposal of land under sub-section (1) shall be so exercised as to secure so far as practicable, that—

(a) where the Corporation proposes to dispose of by sale any such land without any development having been undertaken or carried out thereon, the Corporation shall offer the land in the first instance to the person from whom it was acquired, if they desire to purchase it, subject to such requirements as to its development and use as the Corporation may think fit to impose;

(b) persons who are residing or carrying on business or other activities on any such land shall, if they desire to obtain accommodation on land belonging to the Corporation and are willing to comply with any requirements of the Corporation as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them.

(3) Nothing in this Act shall be construed as enabling the Corporation without the approval of the Government to dispose of land by way of gift, mortgage or charge, but subject as aforesaid any reference in this Act to the disposal of land shall be construed as a reference to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.

29. *Government lands.*— (1) For the furtherance of the objects of this Act, the Government may, upon such conditions as may be agreed upon between that Government and the Corporation, place at the disposal of the Corporation any lands vested in the Government.

(2) After any such land has been developed by, or under the control and supervision of the Corporation, it shall be dealt with by the

Corporation in accordance with the regulations made, and directions given by the Government in this behalf.

(3) If any land placed at the disposal of the Corporation under sub-section (1) is required at any time thereafter by the Government, the Corporation shall replace it at the disposal of the Government upon such terms and conditions as may be mutually agreed upon.

CHAPTER VI

Supplementary and Miscellaneous Provisions

30. Powers of Corporation in case of certain defaults by owner of land Integrated IT Townships/IT Parks.— (1) If the Corporation, after holding a local inquiry or upon report from any of its officers or other information in its possession, is satisfied that the owner of any land in Integrated IT Townships/IT Parks has failed to provide any amenity in relation to the land which in the opinion of the Corporation ought to be provided or has failed to carry out any development of the land for which permission has been obtained under this Act, the Corporation may serve upon the owner a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If any such amenity is not provided or any such development is not carried out within the time specified in the notice, then, the Corporation may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit:

Provided that before taking any action under this sub-section, the Corporation shall afford reasonable opportunity to the owner of the land to show cause as to why such action should not be taken.

(3) All expenses incurred by the Corporation or the agency employed by it in providing the amenity or carrying out the development together with interest at such rate as the Government may by order fix, from the date when a demand for the expenses is made until payment, shall be recoverable by the Corporation from the owner.

31. Order of demolition of building.— (1) Where the erection of any building in an Integrated IT Township/IT Parks has been commenced, or is being carried on, or has been completed, or any

existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted under this Act, or any rules made thereunder, any officer of the Corporation empowered by it in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the officer may himself cause the erection to be demolished and the expenses of such demolition shall be recoverable by the Corporation from the owner:

Provided that, no such order shall be made unless the owner has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under sub-section (1) may appeal against that order within thirty days from the date thereof to a Committee of the Corporation set up for the purpose by regulations made in this behalf. Such Committee may, after hearing the parties to the appeal, either allow or dismiss the appeal or reverse or vary the order or any part of it.

(3) The decision of the Committee on the appeal and subject only to such decision, the order made by the officer under sub-section (1), shall be final.

32. Power to stop building operations.— (1) Where the erection of any building in an Integrated IT Township/IT Parks has been commenced, or is being carried on, or has been completed, or any existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted under this Act or any rules made thereunder any officer of the Corporation empowered in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order requiring the building operations in relation to such erection to be discontinued on and from the date of service of the order.

(2) Where such building operations are not discontinued in pursuance of the requisition under sub-section (1), the Corporation or the officer empowered as aforesaid may require any police officer to remove the person by whom the erection of the building has been commenced and all his

assistants and workmen from the place of the building within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) After a requisition under sub-section (2) has been complied with, the Corporation or the officer empowered as aforesaid may depute by a written order a police officer or an officer, or employee of the Corporation to watch the place in order to ensure that the erection of the building is not continued.

(4) Any person failing to comply with an order made under sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred rupees for every day during which such non-compliance continues after the service of the order.

(5) No compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of any order made under this section.

33. Penalty for construction or use of land and buildings contrary to terms of holding.— (1) Any person who, whether at his own instance or at the instance of any other person, undertakes or carries out construction of or alterations to any building in an Integrated IT Township/IT Parks contrary to the terms under which he holds such building or land under this Act or any rules made thereunder, shall, on conviction, be punished with fine which may extend to ten thousand rupees; and in the case of a continuing contravention, with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who uses any land or building in an Integrated IT Township/IT Parks contrary to the terms under which he holds such land or building under this Act or any rules made thereunder or in contravention of the provisions of any regulations made in this behalf shall, on conviction, be punished with fine which may extend to five thousand rupees.

34. Power to lay pipe lines, etc.— (1) Within any area taken up for development under sub-clause (b) of clause (ii) of section 13, the Corporation or any person empowered in this behalf by the Government, by notification in the Official Gazette (hereinafter in this section referred

to as "the authorized person"), may, for the purposes of (a) carrying gas; water or electricity from a source of supply to the said area or (b) constructing any sewers or drains necessary for carrying off the workings and waste liquids of an industrial process through, any intervening area, lay down, place, maintain, alter, remove or repair any pipes, pipe lines, conduits, supply or services lines, posts or other appliances or apparatus in, on, under, over, along or across, any land in such areas.

(2) The Corporation or the authorized person may at any time enter upon any land in any such area and in such event the provisions of section 35 shall mutatis mutandis apply.

(3) While exercising the power conferred by sub-section (1), the Corporation or the authorized person shall cause as little damage as possible to property. Full compensation to all persons interested for any damage sustained by them in consequence of the exercise of such power as aforesaid shall be paid, as the case may be, by the Corporation, or in the case of the authorized person, by the State Government.

(4) Nothing herein shall authorize or empower the Corporation or the authorized person to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Corporation or such person may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down:

Provided that, nothing in the aforesaid provision shall be construed to mean that the Corporation or other person is forbidden from having the said land acquired at any time by the Government in the normal course.

35. Powers of entry.— Any officer of the Government, any member of the Corporation, and any person, either generally or specially authorized by the Corporation in this behalf, may enter into or upon any land or building with or without assistants or workmen for the purpose of,—

(a) making any inspection, survey, measurement, valuation or enquiry or taking levels of such land or building;

- (b) examining works under construction and ascertaining the course of sewers and drains;
- (c) digging or boring into the sub-soil;
- (d) setting out boundaries and intended lines of work;
- (e) marking such levels, boundaries and lines by placing marks and cutting trenches;
- (f) doing any other thing necessary for the efficient administration of this Act:

Provided that,—

- (i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building;
- (ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building;
- (iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

36. *Officers of the Corporation may be vested with other powers.*— The Government may, by notification in the Official Gazette, nominate any officer of the Corporation to be a controller or licensing authority under any law for the time being in force relating to the procurement or distribution of any commodity in respect of the industrial undertakings established or to be established in the Integrated IT Township/IT Parks entrusted to or developed by the Corporation and no such nomination shall be called into question merely on the ground that such officer is not an officer of the Government.

37. *Overriding powers of Government to issue directions to local authorities.*— Notwithstanding anything contained in any other law, or in any license or permit, if the Government is satisfied, either on a recommendation made in this behalf by the Corporation or otherwise, that the setting up of an industrial undertaking in the Integrated IT Township/IT Parks is impeded by a local authority's refusal to grant, or by such authority's

insistence on conditions which the Government considers unreasonable for the grant of, any amenity, the Government may direct the local authority to grant the said amenity on such conditions as it may consider fit; and thereupon the amenity shall be granted:

Provided that the charge to be paid for granting or continuing such amenity to the local authority concerned is not less than the cost to the local authority or licensee concerned for providing such amenity:

Provided further that, no such direction shall be issued by the Government unless the local authority shall have been given a reasonable opportunity to show cause why any such direction should not be made.

38. *Declaration as Integrated IT Township/IT Parks.*— (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, the Government may, by notification in the Official Gazette,

- (a) declare an area which is—

(1) earmarked as Integrated IT Township/IT Parks; and

(2) having adequate facilities in respect of power, roads, water supply, to be notified area;

(b) appoint the Corporation or any Officer or Committee thereof for the purpose of the assessment and recovery of any taxes when imposed as per the provisions made thereof;

(c) declare that the provisions of any law relating to local authorities providing for control or erection of buildings, levy and collection of taxes, fees and other dues to the local authority which is in force in that area shall cease to apply and thereupon such provisions shall cease to apply thereof:

Provided that the Municipalities and the Village Panchayats which were receiving house tax from the occupants in the Integrated IT Township/IT Parks under their respective laws, shall be compensated by the Government to the extent of the last financial year's collection of taxes for such period as may be determined by the Government which shall not be less than five years;

(d) make other provision as is necessary for the purpose of the enforcement of the provisions so provided to that area.

(2) Before the publication of a notification under sub-section (1), the Government shall cause to be published in the Official Gazette and also in at least one newspaper published in a language other than English and circulating in the area to be specified in the notification, and inviting from all persons who have any objections to the said proposal, to submit the same in writing with reasons therefor to the Government within two months from the date of publication of the proclamation in the Official Gazette.

(3) No such notification under sub-section (1) shall be issued by the Government, unless the objections, if any, so submitted under sub-section (2), are, in its opinion, insufficient or invalid.

39. *Recovery of sums due to the Corporation as arrears of land revenue.*— All sums payable by any person to the Corporation or recoverable by it by or under this Act and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as arrears of land revenue on the application of the Corporation.

40. *Service of notices, etc.*— (1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rule or regulation be deemed to be duly served—

(a) where the person to be served is a company, the service is effected in accordance with the provisions of section 51 of the Companies Act, 1956 (1 of 1956);

(b) where the person to be served is a firm, if the document is addressed to the firm at its principal place of business identifying it by the name or style under which its business is carried on, and is either—

(i) sent under a certificate of posting or by registered post; or

(ii) left at the said place of business;

(c) where the person to be served is a statutory public body or a corporation or a society or other

body, if the document is addressed to the secretary, treasurer or other chief officer of that body, corporation or society, at its principal office and is either—

(i) sent under a certificate of posting or by registered post; or

(ii) left at that office;

(d) in any other case, if the document is addressed to the person to be served and—

(i) is given or tendered to him; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates; or

(iii) is sent under a certificate of posting or by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed to "the owner" or "the occupier", as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served—

(a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1); or

(b) if the document so addressed or a copy thereof so addressed, is given or tendered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed on some conspicuous part of the land or building.

(3) Where a document is served on a firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the occupier (if any) of the property may be required by notice in writing by the Government or the Corporation, as the case may be, to state the name and address of the owner thereof.

41. *Public notices how to be made known.*— Every public notice given under this Act or any rule or regulation made thereunder shall be in writing over the signature of the officer concerned and shall be widely made known in the locality to be affected thereby affixing copies thereof in conspicuous public places, within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper, or by any two or more of these means, and by any other means that the officer may think fit.

42. *Notices, etc., to fix reasonable time.*— Where any notice, order or other document issued or made under this Act or any rule or regulation made thereunder requires anything to be done for the doing of which no time is fixed by this Act or the rule or regulation, the notice, order or other document shall specify a reasonable period of time for doing the same or complying therewith.

43. *Furnishing of returns etc.*— (1) The Corporation shall furnish to the Government such returns, statistics, reports, accounts and other information with respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the Government may from time to time require.

(2) The Corporation shall, in addition to the audit report referred to in section 25, furnish to the Government an annual report on its working as soon as may be after the end of each financial year in such form and detail as may be prescribed, and a copy of the annual report shall be placed before the Legislative Assembly as soon as may be after it is received by the Government.

44. *Withdrawal of area or estate or part thereof.*— Where the Government is satisfied that in respect of any particular Integrated IT Township/IT Parks, or, any part thereof, the purpose for which the Corporation was established under this Act has been substantially achieved so as to render the continued existence of such Township/Parks or area or part thereof under the Corporation unnecessary, the Government may, by notification in the Official Gazette, declare that such Integrated IT Township/IT Parks or part thereof has been removed from the jurisdiction of the Corporation. The Government may also make such other incidental arrangements for the administration of such estate or area or part thereof as the circumstances necessitate.

45. *Default in performance of duty.*— (1) If the Government is satisfied the Corporation has made a default in performing of any duty or obligation imposed or cast on it by or under this Act, the Government may fix a period for the performance of that duty or obligation and give notice to the Corporation accordingly.

(2) If, in the opinion of the Government, the Corporation fails or neglects to perform such duty or obligation within the period so fixed for its performance, it shall be lawful for the Government to supersede and reconstitute the Corporation, as it deems fit.

(3) After the supersession of the Corporation and until it is reconstituted in the manner laid down in Chapter II, the powers, duties and functions of the Corporation under this Act shall be carried on by the Government or by such officer or officers or body of officers as the Government may appoint for this purpose from time to time.

(4) All property vested in the Corporation shall, during the period of supersession, vest in the Government.

46. *Dissolution of Corporation.*— (1) Where the Government is satisfied that the purposes for which the Corporation was established under this Act have been substantially achieved so as to render the continued existence of the Corporation in the opinion of the Government unnecessary, the Government may, by notification in the Official Gazette, declare that the Corporation shall be dissolved with effect from such date as may be specified in the notification, and the Corporation shall be deemed to be dissolved accordingly.

(2) From the said date—

(a) all properties, funds and dues which are vested in, or realisable by, the Corporation, shall vest in, or be realisable by, the Government;

(b) all liabilities which are enforceable against the Corporation shall be enforceable against the Government.

47. *Authority for prosecution.*— Unless otherwise expressly provided, no Court shall take cognisance of any offence relating to property belonging to, or vested by or under this Act in the Corporation, punishable under this Act, except on the complaint of, or upon information received

from, the Corporation or some person authorised by the Corporation by general or special order in this behalf.

48. Composition of offences by Corporation.—(1) The Corporation or any person authorised by the Corporation by general or special order in this behalf may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

49. Offence by companies.—(1) Whenever an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, manager, secretary or other officer, they shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation — For the purposes of this section—

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

50. Penalty for obstruction.—(1) Any person who obstructs the entry of a person authorised under section 35 or any person with whom the

Corporation has entered into a contract for the performance and execution of any act by such person, to enter into or upon any land or building or molests such person after such entry or who obstructs the lawful exercise by him of any power conferred by or under this Act shall, on conviction by a competent Court, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person removes any mark set up for the purpose of indicating any level, boundary line, or direction necessary to the execution of works authorised under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to Rs.1000/- or with both.

51. Power to make rules.—(1) The Government, after consultation with the Corporation in regard to matters concerning it, may, by notification in the Official Gazette, make rules to carry out the purposes of this Act:

Provided that, consultation with the Corporation shall not be necessary on the first occasion of the making of rules under this section, but the Government shall take into consideration any suggestions which the Corporation may make in relation to the amendment of such rules after they are made.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) under section 6, the salary and allowances and honorarium of members of the Corporation;

(b) under section 12, the conditions of appointment and service and the scales of pay of the Managing Director and Chief Accounts Officer of the Corporation;

(c) under section 18, the sums of money to be kept by the Corporation in current and deposit accounts;

(d) under section 20, the condition subject to which the Corporation may borrow;

(e) under section 24, the date by which the annual financial statement and programme of

work shall be submitted by the Corporation to the Government and the form and manner of preparing such statements;

(f) under section 25, the manner of maintaining accounts;

(g) under section 43, the form of, and the details to be given in, the annual report;

(h) the fees which may be charged by the Corporation; (i) any other matter which has to be, or may be, prescribed by the rules.

(3) All rules made under this section shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Assembly may make during the session in which they are so laid, or the session immediately following.

52. Power to make regulations.— (1) The Corporation may, with the previous approval of the Government, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act and without prejudice to the generality of this power, such regulations may provide for:—

(a) under section 7, the time and place of meetings of the Corporation and the procedure to be followed in regard to the transaction of business at such meetings;

(b) under section 12, the conditions of appointment and service and the scales of pay of officers and servants of the Corporation, other than the Managing Director and the Chief Accounts Officer;

(c) under section 18, the officer of the Corporation who may operate its accounts;

(d) under section 29, the manner in which Government lands shall be dealt with by the Corporation after development;

(e) under section 31, the Committee of the Corporation to hear appeals under that section and the procedure to be followed by it;

(f) under section 33, the additional terms and conditions subject to which lands and buildings in Integrated IT Township/IT Parks may be held or used;

(g) any other matter which has to be, or may be, provided by regulations.

(2) All regulations made under this section shall be published in the Official Gazette and shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

53. Protection of action taken in good faith.— No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

54. Notice to suit and limitation of suits against Corporation, Committees, Officers and servant for acts done in pursuance of execution of this Act.— (1) No suit shall lie against the Corporation or against any Committee constituted under this Act, or against any Officer, or servant of the Corporation in respect of any act done in pursuance of execution or intending execution of this Act, or in respect of any alleged neglect, or default in the execution of this Act,—

(a) unless it is commenced within six months after the accrual of the cause of action; and

(b) until the expiration of two months after the notice in writing has been, in the case of the Corporation or its Committee, delivered or left at the Corporation's office and in the case of an Officer or servant of Corporation, delivered to him or left at his office or place of abode; and all such notices shall state with reasonable particulars the cause of action and the name and place of abode of the intending plaintiff and of his advocate, pleader, or agent, if any, for the purpose of the suit.

(2) If the defendant in any such suit is an officer, or servant of the Corporation, payment of any sum or part thereof payable by him in or in consequence of, the suit, may, with the sanction of the Corporation, be made from the Corporation funds.

55. Members, officers and staff of Corporation to be public servants.— All members, officers and servants of the Corporation shall, when acting or purporting to act in pursuance of any of the provisions of this act, be deemed to be public

servants within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

56. Power to remove doubts and difficulties.—If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make provision or give such direction not inconsistent with the express provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty, and the order of the Government, in such cases, shall be final.

57. Act to have overriding effect.— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Goa Municipalities Act, 1968 (Act 7 of 1969), the Goa Panchayat Raj Act, 1994 (Act

14 of 1994) and the City of Panaji Corporation Act, 2002 (Act 1 of 2003).

58. Repeal and saving.— (1) The Goa Information Technology Development Ordinance, 2006, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force of the day on which such thing or action was done or taken.

Secretariat, ANUJA PRAHUB DESSAI
Porvorim-Goa. Secretary to the Government of Goa,
Dated: 6-8-2007. Law Department (Legal Affairs).